CREDITING OF WAGES TO SOCIAL SECURITY ACCOUNTS

HEARING

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY

AND

SUBCOMMITTEE ON OVERSIGHT

OF THE

COMMITTEE ON WAYS AND MEANS HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

AUGUST 9, 1988

Serial 100-77

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE

90-976 WASHINGTON : 1989

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

H781-30

90-976 O - 89 - 1

COMMITTEE ON WAYS AND MEANS

DAN ROSTENKOWSKI, Illinois, *Chairman*

SAM M. GIBBONS, Florida
J.J. PICKLE, Texas
CHARLES B. RANGEL, New York
FORTNEY PETE STARK, California
ANDY JACOBS, JR., Indiana
HAROLD FORD, Tennessee
ED JENKINS, Georgia
RICHARD A. GEPHARDT, Missouri
THOMAS J. DOWNEY, New York
FRANK J. GUARINI, New Jersey
MARTY RUSSO, Illinois
DON J. PEASE, Ohio
ROBERT T. MATSUI, California
BERYL ANTHONY, JR., Arkansas
RONNIE G. FLIPPO, Alabama
BYRON L. DORGAN, North Dakota
BARBARA B. KENNELLY, Connecticut
BRIAN J. DONNELLY, Massachusetts
WILLIAM J. COYNE, Pennsylvania
MICHAEL A. ANDREWS, Texas
SANDER M. LEVIN, Michigan
JIM MOODY, Wisconsin

BILL ARCHER, Texas
GUY VANDER JAGT, Michigan
PHILIP M. CRANE, Illinois
BILL FRENZEL, Minnesota
DICK SCHULZE, Pennsylvania
BILL GRADISON, Ohio
WILLIAM M. THOMAS, California
RAYMOND J. McGRATH, New York
HAL DAUB, Nebraska
JUDD GREGG, New Hampshire
HANK BROWN, Colorado
ROD CHANDLER, Washington
E. CLAY SHAW, JR., Florida

ROBERT J. LEONARD, *Chief Counsel*
M. KENNETH BOWLER, *Staff Director*
A.L. SINGLETON, *Minority Chief of Staff*

SUBCOMMITTEE ON SOCIAL SECURITY

ANDY JACOBS, JR., Indiana, *Chairman*

RICHARD A. GEPHARDT, Missouri
SAM M. GIBBONS, Florida
SANDER M. LEVIN, Michigan
JIM MOODY, Wisconsin

HAL DAUB, Nebraska
PHILIP M. CRANE, Illinois
BILL FRENZEL, Minnesota

SUBCOMMITTEE ON OVERSIGHT

J.J. PICKLE, Texas, *Chairman*

BERYL ANTHONY, JR., Arkansas
RONNIE G. FLIPPO, Alabama
BYRON L. DORGAN, North Dakota
HAROLD FORD, Tennessee
CHARLES B. RANGEL, New York
ANDY JACOBS, JR., Indiana

DICK SCHULZE, Pennsylvania
RAYMOND J. McGRATH, New York
ROD CHANDLER, Washington
E. CLAY SHAW, JR., Florida

CONTENTS

Page

Press release of Tuesday, July 26, 1988, announcing the hearing 2

WITNESSES

U.S. General Accounting Office, Joseph F. Delfico, Senior Associate Director, Jacquelyn Stewart, and William Staab 22
U.S. Department of Health and Human Services, Social Security Administration, Norman Goldstein, Chief Financial Officer 41
U.S. Department of the Treasury, Internal Revenue Service, Charles H. Brennan, Deputy Commissioner of Operations 45

American Association of Retired Persons, J. Clair Jarvis 82
American Federation of Government Employees, Kenneth T. Blaylock and Chapin Wilson 87
Gephardt, Hon. Richard A., a Representative in Congress from the State of Missouri 6
National Committee To Preserve Social Security and Medicare, Landis Neal and Robin Jacobsohn 99
Oakar, Hon. Mary Rose, a Representative in Congress from the State of Ohio.. 16
Save Our Security Coalition, Arthur S. Flemming (former Secretary of Health, Education, and Welfare) 75

SUBMISSIONS FOR THE RECORD

Aging, Select Committee on, Hon. Edward R. Roybal, Chairman, and a Representative in Congress from the State of California, statement 106
American Federation of Labor and Congress of Industrial Organizations, Robert M. McGlotten, letter 108
Crane, Hon. Philip M., a Representative in Congress from the State of Illinois, statement 109
Mazzoli, Hon. Romano L., a Representative in Congress from the State of Kentucky, statement 110
Pepper, Hon. Claude, a Representative in Congress from the State of Florida, statement 6
Tauke, Hon. Thomas J., a Representative in Congress from the State of Iowa, statement and attachments 111
Williamson, Robert D., New York, N.Y., letter 133

CREDITING OF WAGES TO SOCIAL SECURITY ACCOUNTS

TUESDAY, AUGUST 9, 1988

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON SOCIAL SECURITY AND THE
SUBCOMMITTEE ON OVERSIGHT,
Washington, DC.

The subcommittees met, pursuant to call, at 2 p.m., in room B-318, Rayburn House Office Building, Hon. Andy Jacobs, Jr. (chairman of the Subcommittee on Social Security) and Hon. J.J. Pickle (chairman of the Subcommittee on Oversight) presiding.

[The press release announcing the hearing follows:]

FOR IMMEDIATE RELEASE
TUESDAY, JULY 26, 1988

SUBCOMMITTEE ON SOCIAL SECURITY #11
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

ANDY JACOBS, JR. (D., IND.),
CHAIRMAN, SUBCOMMITTEE ON SOCIAL SECURITY, AND
J. J. PICKLE (D., TEX.),
CHAIRMAN, SUBCOMMITTEE ON OVERSIGHT,
COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES,
ANNOUNCE A JOINT HEARING ON THE CREDITING OF WAGES TO
SOCIAL SECURITY ACCOUNTS,
ON TUESDAY, AUGUST 9, 1988, AT 2:00 P.M.,
IN ROOM B-318 RAYBURN HOUSE OFFICE BUILDING

Andy Jacobs, Jr. (D., Ind.), Chairman of the Subcommittee on Social Security, and J. J. Pickle (D., Tex.), Chairman of the Subcommittee on Oversight, Committee on Ways and Means, U.S. House of Representatives, announced today that the Subcommittees will hold a joint hearing to examine the adequacy of procedures followed by the Social Security Administration and the Internal Revenue Service in crediting workers' earnings to their social security accounts. The hearing will be held on Tuesday, August 9, 1988, in room B-318, Rayburn House Office Building, beginning at 2:00 p.m.

BACKGROUND

Since 1978, employers have been required to report their employees' earnings annually to the Social Security Administration (SSA) and quarterly to the Internal Revenue Service (IRS). As a result of discrepancies between these two reports, the Social Security Administration recorded approximately $58.8 billion less in employee earnings than did the IRS between 1978 and 1984. Additional discrepancies have occurred in subsequent years. Because tax revenue is credited to the social security trust funds based on employer reports to IRS, while social security benefits are computed based on employer reports to SSA, the social security trust funds contain more than $7.7 billion in taxes for which no wages have been credited to any worker for benefit purposes. A limited sampling of beneficiaries by the General Accounting Office indicates that the potential average loss to an affected worker may be $17 per month. On July 12, 1988, SSA and IRS reached agreement on a joint plan aimed at reconciling the large backlog of inconsistent wage reports and avoiding future discrepancies.

Last March, the Subcommittee on Social Security requested that the General Accounting Office (GAO) study the final IRS-SSA agreement and report to the Subcommittee on its adequacy.

SCOPE OF THE HEARING

The hearing will focus on means for improving the crediting of earnings to social security accounts. The Subcommittees will receive testimony from the General Accounting Office, the Social Security Administration, and the Internal Revenue Service on the provisions of the recent IRS-SSA accord, as well as on additional measures which may be needed to improve the accuracy and reliability of the existing wage-crediting system. In response to the March request of the Subcommittee on Social Security, GAO will assess the extent to which the accord addresses known causes of this problem, the reasonableness of the time frame and adequacy of resources dedicated to the plan,

and the likely effectiveness of the measures called for in the plan once they are in place. The Subcommittees invite witnesses to comment on the plan as well as other changes which may be needed to improve the wage-crediting system, including the Social Security Administration's proposal to provide workers with more detailed and frequent wage credit information, and proposals to improve workers' ability to correct errors in their wage records.

MEMBERS OF CONGRESS REQUESTS TO BE HEARD:

Members of Congress interested in testifying should have their staffs contact Harriet Lawler or Diane Kirkland (telephone 225-1721) by the close of business August 2, 1988, or the request may be made by formal written request addressed to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, room 1102 Longworth House Office Building. Any questions regarding a scheduled appearance should be directed to the Subcommittee staff (225-9263).

Members of Congress are requested to restrict their oral statements to no more than five minutes. THE FIVE MINUTE RULE WILL BE STRICTLY APPLIED. The full written statement will be included in the printed record.

Members testifying before the Subcommittee are requested to submit 100 copies of their prepared statements to the Subcommittee on Social Security office, room B-316 Rayburn House Office Building, at least 24 hours in advance of their scheduled appearances. (See formatting requirements below.)

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Persons submitting written comments for the printed record of the hearing should submit six (6) copies by the close of business, August 23, 1988, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, room 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing a written statement for the record of the printed hearing wish to have their statements distributed to the press and the interested public at the hearing, they may provide 75 additional copies for this purpose to the Subcommittee office, room B-316 Rayburn House Office Building, during the course of the public hearing.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

Chairman JACOBS. We will convene this hearing before the Committee on Ways and Means, Subcommittees on Social Security and Oversight.

My first witness is our colleague, the Honorable Richard Gephardt of the State of Missouri.

Did Mr. Pickle want to make a statement?

Chairman PICKLE. No, but I would like my prepared remarks included as part of the record.

[The statement of Mr. Pickle follows:]

OPENING STATEMENT
HONORABLE J. J. PICKLE, CHAIRMAN
SUBCOMMITTEE ON OVERSIGHT
COMMITTEE ON WAYS AND MEANS
ON
THE CREDITING OF WAGES TO SOCIAL SECURITY ACCOUNTS

THIS AFTERNOON THE SUBCOMMITTEES ON SOCIAL SECURITY AND OVERSIGHT WILL REVIEW THE PROBLEMS THE SOCIAL SECURITY ADMINISTRATION (SSA) AND THE INTERNAL REVENUE SERVICE (IRS) HAVE EXPERIENCED IN CREDITING WORKERS' EARNINGS TO THEIR SOCIAL SECURITY ACCOUNTS. I WANT TO COMMEND CHAIRMAN JACOBS FOR HIS INITIATIVE IN HOLDING THIS HEARING IN SUCH A TIMELY MANNER.

WE ARE HOLDING THESE HEARINGS BECAUSE THE GENERAL ACCOUNTING OFFICE (GAO), DURING THE COURSE OF ITS INVESTIGATIONS, FOUND THAT THE FEDERAL GOVERNMENT COULD NOT ACCOUNT FOR **$58.5 BILLION** IN WAGES POTENTIALLY AFFECTING THE EARNINGS RECORDS OF **9.7 MILLION** WORKERS. THIS IS NO SMALL SUM OF MONEY. WHILE IT IS TRUE THAT IT REPRESENTS SLIGHTLY LESS THAN ONE PERCENT OF ALL EARNINGS THAT SSA RECORDED FROM 1978 THOUGH 1984, I DO NOT THINK THAT THIS JUSTIFIES OR EXCUSES OUR LONG INATTENTION TO THIS PROBLEM.

THE FACT IS, THAT FOR TEN YEARS EMPLOYERS AND WORKERS HAVE BEEN PAYING SOCIAL SECURITY TAXES AND MILLIONS OF THESE WORKERS HAVE NOT BEEN GETTING THEIR WAGE RECORDS PROPERLY CREDITED. THE WORKER KNOWS THE MONEY HAS BEEN WITHHELD, BECAUSE HE SEES ON HIS PAY STUB EACH MONTH THAT IT HAS BEEN TAKEN OUT OF HIS PAYCHECK. AND HE KNOWS THAT IT HAS BEEN REPORTED TO THE GOVERNMENT, BECAUSE IT IS ON THE W-2 FORM HE SENDS TO THE IRS ALONG WITH HIS FEDERAL TAX RETURN. BASED ON THIS EVIDENCE, WORKERS EXPECT THAT THEIR EARNINGS HAVE BEEN FULLY CREDITED TO THEIR SOCIAL SECURITY ACCOUNTS, AND RIGHTFULLY SO. I DON'T THINK WORKERS AND TAXPAYERS CARE ONE BIT ABOUT THE BUDGETARY AND WORK LOAD PROBLEMS OF THE IRS AND SSA. THAT IS OUR PROBLEM. IT IS UP TO THE ADMINISTRATION AND CONGRESS TO SEE THAT THE JOB GETS DONE, AND DONE WELL.

AND SO TODAY, WE WILL ASK WHAT IS BEING DONE TO RECONCILE THE MISSING AND DISCREPANT WAGE RECORDS OF THE PAST DECADE? WHAT IS BEING DONE TO INSURE THAT THIS WILL NOT HAPPEN AGAIN? WHAT RESPONSIBILITY DO EMPLOYERS, THE SSA, AND THE IRS HAVE IN MAKING SURE THAT THESE RECORDS ARE PROPERLY KEPT? FINALLY, WHAT CAN WORKERS DO TO PROTECT THEMSELVES WHEN THEIR EMPLOYERS AND THEIR GOVERNMENT FAIL THEM?

I HOPE THAT THE SUBCOMMITTEES WILL RECEIVE SATISFACTORY ANSWERS TO THESE QUESTIONS TODAY. I HOPE THAT THESE PROBLEMS ARE BEING RESOLVED, AND THAT ALL WORKERS WILL RECEIVE FULL CREDIT FOR THEIR PAST AND FUTURE EARNINGS. I CAN ASSURE YOU THAT I WILL DO MY BEST TO SEE THAT THE CONGRESS FOLLOWS THIS ISSUE UNTIL IT IS FULLY RESOLVED.

Mr. SCHULZE. Mr. Chairman, I am pleased to join with you and Congressman Pickle in opening your subcommittee hearing.

The person's wage history is an important record. The amount of wages a person earns through his working years affects his standard of living. His wage history also affects his retirement standard of living. A person's Social Security benefits are based on his wage history.

A higher wage history means retiree may be eligible for higher Social Security benefits. There may be discrepancies in the records. Some reports say almost $59 billion in wages were not properly posted to Social Security accounts between 1978 and 1984.

This low-ball wage history may result in some persons receiving about $17 per month less in benefits than they should receive.

The wage record discrepancy stems from the fact that the IRS and the SSA use different reporting forms. The form W-2 is an annual wage document whereas form 941 is a quarterly statement. Discrepancies between the W-2 and 941's can result in the wage history errors.

We will review the origin of the wage history errors and review the actions which the IRS and SSA have taken to resolve the errors.

I look forward to receiving today's testimony.

Chairman JACOBS. Thank you, Mr. Schulze.

Mr. Gephardt.

STATEMENT OF HON. RICHARD A. GEPHARDT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. GEPHARDT. Thank you, Mr. Chairman.

I thank you and the members of the committee for having this hearing and being here today and giving me a chance to testify.

I, by way of a side note, would congratulate the chairman on the difference—in knowing the difference between the way the word "Missouri" is pronounced in different parts of the State. You truly are a native Missourian if you know that.

The problem we are presented with is the fact that revenues from about $58 billion worth of workers' wages has accumulated in the Social Security trust fund without being credited to workers accounts. As a result some workers will not receive their full benefits under old-age, survivors, and disability insurance programs.

The severity of the matter is what lead my friend and colleague, Congressman Claude Pepper and me to seek a legislative remedy.

Claude Pepper wanted to be here today, but he was unable to come because of activities on the Rules Committee.

He has asked to submit his testimony and I ask the committee to make it part of the record.

Chairman JACOBS. Without objection.

[The statement of Mr. Pepper follows:]

THE HONORABLE CLAUDE PEPPER
ON RESOLVING DISCREPANCIES IN
SOCIAL SECURITY WAGE REPORTING

TESTIMONY BEFORE A JOINT HEARING OF
THE SOCIAL SECURITY AND THE OVERSIGHT SUBCOMMITTEES
AUGUST 9, 1988

DISTINGUISHED CHAIRMEN AND MEMBERS OF THE SUBCOMMITTEES, I AM PLEASED TO BE HERE WITH REPRESENTATIVE GEPHARDT AND I AM ESPECIALLY PLEASED YOU HAVE CALLED THIS MEETING, SIGNALING YOUR CONTINUING CONCERN WITH THE DISCREPANCIES BETWEEN INTERNAL REVENUE WAGE RECORDS AND CREDITED EARNINGS IN INDIVIDUAL SOCIAL SECURITY ACCOUNTS. IT IS A SERIOUS PROBLEM.

IN FEBRUARY OF THIS YEAR, REPRESENTATIVE GEPHARDT AND I INTRODUCED THE "S.E.R.V.I.S." BILL, THE SOCIAL SECURITY ELIGIBILITY RECONCILIATION VERIFICATION AND INDEPENDENT STATUS ACT. AS YOU KNOW, OUR BILL WOULD AUTHORIZE ADDITIONAL STAFF AND FUNDING AND ESTABLISH AN INTERAGENCY TASK FORCE TO REDRESS THE BACKLOG OF UNRECONCILIED WAGE REPORTS. THE BACKLOG BETWEEN 1978 AND 1984 AMOUNTED TO NEARLY $60 BILLION IN EARNINGS REPORTED TO IRS BUT UNCREDITED TO INDIVIDUAL SOCIAL SECURITY ACCOUNTS, ACCORDING TO G.A.O.'s SEPTEMBER 1987 REPORT. OUR BILL WOULD ALSO ESTABLISH A COMMISSION TO MAKE RECOMMENDATIONS TO PREVENT FUTURE DISCREPANCIES.

FOR MY PART, I AM OPTIMISTIC THAT THE JULY 1988 MEMORANDUM OF UNDERSTANDING REACHED BETWEEN THE INTERNAL REVENUE SERVICE AND THE SOCIAL SECURITY ADMINISTRATION IS A STEP IN THE RIGHT DIRECTION. I AM PLEASED THAT IRS AND SSA HAVE AGREED ON A PLAN OF ACTION TO NOTIFY EMPLOYERS AND TO SEEK THEIR ASSISTANCE; THAT THE WORKLOAD HAS BEEN DIVIDED BETWEEN THE AGENCIES; THAT REPRESENTATIVES FROM BOTH AGENCIES WILL BE QUICKLY DESIGNATED TO FORM AN ONGOING INTERAGENCY WORKGROUP; THAT THE AGENCIES WILL PRESENT EDUCATIONAL WORKSHOPS FOR EMPLOYERS TO IMPROVE EMPLOYER REPORTING PRACTICES AND THAT THE MEMORANDUM OF UNDERSTANDING WILL BE REVIEWED ANNUALLY.

WHILE THERE IS MUCH IN THIS MEMORANDUM OF UNDERSTANDING TO MAKE ME HOPEFUL, I MUST QUICKLY ADD THAT MY OPTIMISM IS GUARDED. FOUR AREAS OF SERIOUS CONCERN REMAIN:

* THE ADEQUACY OF RESOURCES DEVOTED TO THE TASK: AS I READ THE DOCUMENT, BOTH AGENCIES CONSIDER EXISTING STAFF AND FUNDING SUFFICIENT. THAT WOULD BE A HAPPY SURPRISE. IT SEEMS TO ME THAT EITHER SOME OTHER IMPORTANT TASKS OF THE AGENCIES WILL BE GIVEN SHORT-SHRIFT OR THE RECONCILIATION EFFORT WILL REQUIRE ADDITIONAL RESOURCES. RECONCILIATION WILL NOT MAKE MONEY FOR THE GOVERNMENT, IN THE WAY ADDITIONAL AUDITS MAY, SO I IMAGINE IT WILL BE HARD TO DEVOTE IRS RESOURCES TO IT. I PLEDGE TO WORK WITH THE SUBCOMMITTEES TO APPRISE THE APPROPRIATIONS COMMITTEES IN AN EFFORT TO PROVIDE SUFFICIENT RESOURCES TO IMPLEMENT IT.

* NOTICE TO EMPLOYEES: CURRENT WORKERS, AS WELL AS RETIREES, OUGHT TO BE NOTIFIED OF THE POTENTIAL PROBLEM IN THE CREDITING OF THEIR EARNINGS. THE MEMORANDUM OF UNDERSTANDING FOCUSES THE ENTIRE EFFORT ON EMPLOYERS. I BELIEVE EMPLOYEES SHOULD BE INVITED TO AID IN THE RECONCILIATION EFFORT. THIS WAS AN IMPORTANT PART OF THE S.E.R.V.I.S. BILL. THE SOCIAL SECURITY ADMINISTRATION, INDEPENDENTLY OF THIS MEMORANDUM, HAS DISCUSSED PLANS TO PROVIDE WORKERS WITH MORE DETAILED AND FREQUENT WAGE REPORTING. I AM HOPEFUL SSA WILL DESIGN A PROCESS BY WHICH EMPLOYEES CAN EASILY CORRECT ERRORS IN THEIR WAGE RECORDS AND ASSIST IN THE RECONCILIATION EFFORT.

* VIGILANCE OF EFFORTS: THE MEMORANDUM OF UNDERSTANDING STATES THAT "BEYOND CORRESPONDENCE SSA AND IRS WILL NEGOTIATE, ON A CASE-BY-CASE BASIS, OTHER TYPES OF CONTACTS THAT MAY BE NEEDED." THIS IS NOT A REASSURING COMMITMENT THAT EFFORTS BEYOND THE MINIMAL WILL BE MADE. I URGE THE SUBCOMMITTEES TO OVERSEE THE EFFORT MADE IN RECONCILIATION.

* TOLERANCES: BEFORE THE MOST RECENT MEMORANDUM OF UNDERSTANDING, IRS AND SSA AGREED THAT DISCREPANT AMOUNTS BELOW A CERTAIN AMOUNT WOULD BE IGNORED. THE LABORS ASSIGNED TO EACH AGENCY IN THE JULY MEMORANDUM OF UNDERSTANDING ARE "SUBJECT TO AGREED UPON TOLERANCES." HOWEVER GAO QUESTIONED THE LEVEL OF TOLERANCE IN ITS SEPTEMBER 1987 REPORT, AS DID THE NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE. THE CONCERN WAS RAISED THAT THE TOLERANCE LEVEL IS TOO HIGH. IN EFFECT, DISCREPANCIES IN WAGE REPORTS OF MORE THAN 723,000 EMPLOYERS MAY BE BELOW THE AGREED UPON LEVEL OF TOLERANCE. CHOOSING A HIGH LEVEL OF TOLERANCE ENSURES THE LOSS OF SOME BENEFITS AND THOSE LEAST ABLE TO AFFORD IT ARE PRECISELY THE ONES TO BE HARMED. SOME LOW-INCOME RETIREES MAY LOSE ABOUT $9 A MONTH.

THIS HEARING SHOULD SEND THE MESSAGE: WE IN CONGRESS ARE PLEASED THAT AN AGREEMENT HAS BEEN REACHED BUT WE ARE WARY ABOUT THE ADEQUACY OF RESOURCES DEVOTED TO THE TASK, THE NOTIFICATION OF EMPLOYEES, THE VIGILANCE OF THE EFFORTS, AND THE LEVEL OF TOLERANCE. AGAIN, THANK YOU FOR THE OPPORTUNITY TO TESTIFY AND THANK YOU FOR YOUR CONTINUING EFFORTS TO OVERSEE THE RECONCILIATION PROCESS.

Mr. GEPHARDT. In February of this year we introduced H.R. 4018 which, among other things, seeks to provide for the reconciliation of discrepant earnings records by the SSA and the Internal Revenue Service. The bill is now pending before the Social Security Subcommittee.

Our bill sought to implement a system for the Social Security Administration and the IRS to correct this apparent problem in coordinating taxpayers' records with Social Security records. These records are used, as you know, to assess wage earners' credit in their Social Security accounts.

Because of a variety of factors brought to light in an October 1987 General Accounting Office report—employer accounting errors in calculating employee earnings, entering improper employee identification numbers, failure of employers to submit any earnings figures at all for credit, and many more—SSA and IRS have not adequately assigned full credit to an estimated 9.7 million Americans.

The root of the problem seems to be the conversion in 1978 of SSA to an annual wage reporting system while the IRS maintained a quarterly reporting system. In the ensuing 10 years discrepancies developed between the two agencies' records.

Our approach calls for a joint effort by SSA and IRS to resolve the backlog of cases pending in SSA's files. We also create an outside, independent ad hoc commission to examine the most cost-effective manner in coordinating efforts between the SSA and IRS for prospective wage reconciliation.

I hope that this hearing today can accomplish several things. First, to fully examine the memorandum of understanding that SSA and IRS have recently signed.

Two, heighten the level of awareness that the average citizen has of this problem.

Three, discuss what this problem means administratively, to the well-being of the Social Security system in general.

First, the memorandum of understanding signed by the Commissioner of Social Security and the Commissioner of Internal Revenue. I want to commend the Commissioners for their work in reaching a compromise on necessary steps in resolving this situation.

I understand they have already implemented some parts of this agreement and SSA has been successful in resolving some of the backlog in unreconciled cases.

There are some noticeable gaps in the agreement that I would hope both agencies might clarify for us: I would like to mention what those gaps are.

First, SSA has not made a certification of accurate earnings records since 1978. It is important, for SSA in its commitment to resolve the backlog of unreconciled cases, to begin certifying these records as soon as its administrative constraints allow.

I would urge that a concrete plan be made to certify ongoing earnings records instead of making "interim certifications" of wage reports.

Second, since the memorandum assigns full responsibility to SSA to resolve the backlog of discrepant cases in its suspense files, I would hope that some recourse for action against employers who

are uncooperative would be made available to SSA. Without a compliance mechanism, SSA may have difficulty in retrieving information in the out years.

The IRS currently has a $50 penalty for each form an employer fails to file—is this steep enough to compel a higher compliance level?

IRS and SSA should negotiate a coordinated penalty structure to address this problem. Since the GAO report on this matter identifies employer error or noncompliance as a major reason for discrepancies, we need to examine stricter measures for enforcement.

The agreement specifies that SSA will make two mail contacts in attempting to retrieve information from employers to clear up the backlog of cases. An exception will be made only for employers who are identified as having over $500,000 of wage discrepancies in their records. These employers will receive a phone call from SSA.

How else can SSA retrieve the information needed to resolve these cases besides mailings? Are limited resources the reasons for not engaging in a more extensive check of employer records?

How much money is needed by each agency to carry out the specifications of the memorandum? In the last couple of years there has been much debate over the quality of service because of the President's budget proposals to cut back on the administrative allocations for SSA.

Is the current staff-hire budget sufficient for SSA to fulfill its end of the agreement? Are additional authorizations and appropriations needed?

Will new emphasis on case resolution detract from service in other areas, such as outreach programs and local SSA case offices?

Next, will there be an allowable level of incomplete reconciliation? If so, what will that level be?

Next, will the increased level of SSA and IRS interaction create any problems with respect to compatibility of computerized records? Will additional computer hardware or software be required to accommodate the interagency reconciliation process?

Next, will there be an extension in the statute of limitations for claims brought by individuals with questions on their earnings records beyond the 3 years, 3 months, 15 days currently in place?

Next is the Social Security trust fund in jeopardy of losing revenue as a result of accurate certification procedures? If so, how would this affect the system's solvency?

Next, the problem of public awareness: Many affected workers are currently unaware that their Social Security records do not reflect the correct wage level that they have actually earned.

As a result, their benefit levels may not be what they are rightfully entitled to.

In our bill we call for a number of notification procedures through the IRS forms and through public education programs so that individuals could do something about this problem.

Additionally, I think when the public becomes aware of the availability of earnings records, we have got to ask, is the SSA equipped to accommodate individual inquiries. A beneficiary ombudsman, authorized by my bill, would oversee a comprehensive program to address specific questions.

This memorandum of understanding and the investigatory process leading up to it were a long time in coming. Workers who have been paying their share of Social Security taxes expect a certain degree of accuracy from the system in which they have placed their trust.

The recent efforts of both the Social Security Administration and the Internal Revenue Service to resolve the problem are still in the early stages. And, although much progress has been made, there are still lingering issues, some of which I have highlighted, which need to be addressed by the agencies in a shorter time frame than I think we are looking at today.

People pay their taxes on time. It seems to me we have got to address the benefits on time before people die or forget about the problem.

I would wind up by saying that this system, as we all know, is built on trust and confidence. People believe that they are going to get the benefits that are coming to them. I am astounded by the extent of this problem.

I had no idea it was this large. I think we have got to do our best to make sure that these problems are cleared up in the most expeditious possible manner.

I know this committee will see that that happens.

[The statement of Mr. Gephardt follows:]

REMARKS OF REPRESENTATIVE RICHARD A. GEPHARDT
JOINT HEARING BEFORE THE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEES ON SOCIAL SECURITY AND OVERSIGHT
TUESDAY, AUGUST 9, 1988

Chairman Jacobs, Chairman Pickle, my colleagues on the Social Security Subcommittee and Oversight Subcommittee, thank you for giving me the opportunity to appear before you today to discuss a problem that affects many Americans and which must be resolved if the American people are to continue to have confidence in the Social Security system.

The problem that we are here to discuss today is one that deeply concerns me. When I first became aware of it, I was astounded that such accounting errors could go on for so long without definitive action to rectify them. Revenues from $58.5 billion dollars in workers' wages has accumulated in the Social Security Trust Fund without being credited to workers' accounts. As a result, some workers will not receive their full benefits under the Old Age Survivors, and Disability Insurance program (OASDI) upon retirement.

The severity of this matter is what led my friend and colleague Congressman Claude Pepper and I to seek a legislative remedy. On February 25 of this year we introduced HR 4018 which, among other things, seeks to provide for the reconciliation of discrepant earnings records by the Social Security Administration (SSA) and the Internal Revenue Service (IRS). The bill is now pending before the Social Security subcommittee.

Our bill seeks to implement a system for the Social Security Administration and the Internal Revenue Service to correct an apparent problem in coordinating taxpayer records with Social Security records. These records are used to assess wage earners' credit in their Social Security accounts. Because of a variety of factors brought to light in an October 1987 General Accounting Office (GAO) report -- employer accounting errors in calculating employee earnings, entering improper employee identification numbers (EINs), failure of employers to submit any earnings figures at all for their employees' Social Security credit, and many more -- SSA and IRS have not adequately assigned full credit to an estimated 9.7 million Americans. The root of the problem seems to be the conversion in 1978 of SSA to an annual wage reporting system while IRS maintained a quarterly reporting system. In the ensuing ten years, discrepancies developed between the two agencies' records.

Our approach calls for a joint effort by SSA and IRS to resolve the backlog of cases pending in SSA's suspense files for missing or discrepant wage reporting. We also create an outside, independent, ad hoc Commission to examine the most cost-effective manner in coordinating efforts between SSA and IRS for prospective wage reconciliation.

I hope that this hearing will accomplish several things today: (1) Fully examine the Memorandum of Understanding that SSA and IRS have recently signed; (2) heighten the level of awareness that the average citizen has of this problem; and (3) discuss what this problem means, administratively, to the well-being of the Social Security System in general.

First, the Memorandum of Understanding (MOU) signed by Commissioner of Social Security Dorcas Hardy and Commissioner of Internal Revenue Lawrence Gibbs: I want to commend the Commissioners for their work in reaching a compromise on necessary steps in resolving this situation. I understand they have already implemented some parts of the agreement and SSA has been successful in resolving some of the backlog in unreconciled cases.

There are some noticeable gaps in the agreement that I would hope both agencies might clarify for us:

o SSA has not made a certification of accurate earnings records since 1978. It is important, for SSA in its commitment to resolve the backlog of unreconciled cases, to begin certifying these records as soon as its administrative constraints allow. I would urge that a concrete plan be made to certify ongoing earnings records instead of making "interim certifications" of wage reports.

o Since the Memorandum assigns full responsibility to SSA to resolve the backlog of discrepant cases in its suspense files, I would hope that some recourse for action against employers who are uncooperative would be made available to SSA. Without a compliance mechanism, SSA may have difficulty in retrieving information in the out years.

o The IRS currently has a $50 penalty for each form an employer fails to file -- is this steep enough to compel a higher compliance level? IRS and SSA should negotiate a coordinated penalty structure to address this problem. Since the GAO report on this matter identifies employer error or non-compliance as a major reason for discrepancies, we need to examine stricter measures for enforcement.

o The agreement specifies that SSA will make two mail contacts in attempting to retrieve information from employers to clear up the backlog of cases. An exception will be made only for employers who are identified as having over $500,000 of wage discrepancies in their records. These employers will receive a phone call from SSA. --- How else can SSA retrieve the information needed to resolve these cases besides mailings? Are limited resources the reason for not engaging in a more extensive check of employer records?

o How much money is needed by each agency to carry out the specifications of the MOU? In the last couple of years there has been much debate over the quality of service because of the President's budget proposals to cut back on the administrative budget allocations for SSA. Is the current staff-hire budget sufficient for SSA to fulfill its end of the agreement? Are additional authorizations and appropriations needed? Will new emphasis on case resolution detract from service in other areas, such as outreach programs and local SSA case offices?

o Will there be an allowable level of incomplete reconciliation? If so, what will that level be?

o Will the increased level of SSA and IRS interaction create any problems with respect to compatibility of computerized records? Will additional computer hardware or software be required to accommodate the inter-agency reconciliation process?

o Will there be an extension in the statute of limitations for claims brought by individuals with questions on their earnings records beyond the 3-3-15 (three years, three months, fifteen days) currently in place?

o Is the Social Security Trust Fund in jeopardy of losing revenue as a result of accurate certification procedures? If so, how would this affect the system's solvency?

Second, there is the problem of public awareness: Many affected workers are currently unaware their Social Security records do not reflect the correct wage level that they have actually earned. As a result, their benefit levels may not be what they are rightfully

entitled to. It is important that wage earners monitor their earnings record and use the channels the SSA makes available to the public to obtain their earnings history.

SSA has commissioned a new form which breaks down workers' earnings more accurately, on a year-by-year basis, and projects average earnings for an individual upon retirement. While SSA anticipates an increase in requests for wage histories, I am skeptical that this improved form will be utilized unless there are efforts to educate the public on its existence and to impress upon workers the need to regularly check their wage data.

A public education campaign is needed to urge that people do this on a regular basis. HR 4018 includes directives to institute such a program. I have already taken steps to make the citizens of the 3rd District of Missouri aware of the need to monitor their earnings for this purpose. The MOU does specify an education campaign for employers to comply with SSA-IRS reporting standards, but neglects the public's role to act as its own watchdog over its interests.

Additionally, when the public becomes aware of the availability of earnings records, is SSA equipped to accommodate individual inquiries? A beneficiary ombudsman, which would be authorized by my bill, would oversee a comprehensive program to address specific questions.

This Memorandum of Understanding and the investigatory process leading up to it were a long-time in coming. Workers who have been paying their share of Social Security taxes expect a certain degree of accuracy from the system in which they have placed their trust. The recent efforts of both the Social Security Administration and the Internal Revenue Service to resolve the problem are still in the nascent stages. And, although much progress has been made, there are still lingering issues, some of which I have highlighted, which need to be addressed by the agencies before we see a satisfactory conclusion to this situation.

The Social Security system is one built on confidence. It is a contract between the people and their government. As representatives of the people, we owe it to our constituents to return to them the full benefits they have earned over a lifetime of contributions to the system. Congress should play an active role in overseeing the implementation of this Memorandum of Understanding. Additionally, I urge SSA and IRS to come to Congress should they require additional resources and statutory authority to fulfill their responsibilities. We all have a common interest: For the system to work for everyone.

The system has been criticized by many over the years since it was first installed in 1937. Over 50 years later it is still a viable program and is expected to remain strong well into the next century. Problems such as the one we are discussing today highlight the need for more accountability in the system, a reexamination of the administrative structure of SSA, and a reassessment of the cooperation that SSA must engage in with IRS to certify earnings.

Mr. GEPHARDT. I am very happy to be here. I am happy that you are giving this time to this important matter.

I would be happy to try to respond to any questions.

Chairman JACOBS. Mr. Pickle.

Chairman PICKLE. We are glad to have you here and glad to see you take a lead on this as you have so many other important issues.

Mr. DAUB. We appreciate your being here.

Chairman JACOBS. Do you want to thank him, Mr. Anthony?

Mr. ANTHONY. Yes.

Mr. SCHULZE. Thank you for cogent testimony.

Chairman JACOBS. For weathering cross examination, Mr. McGrath.

Mr. MCGRATH. Thank you, Mr. Chairman.

Chairman JACOBS. It is up to me to make it unanimous, and I do.

Mr. GEPHARDT. Thank you. I would ask that we look at the possibilities of legislating in this area. I ask that we look at it even this year. I know that is very ambitious to think about, but I would say that the longer we wait on this, the longer the people who have the benefits coming will have to wait for something to happen.

My conclusion on the memorandum is that it is great, I am happy for it. I don't think it is enough in the area of coordination of the two agencies or the area of public education. I think we have to work a little faster.

Chairman JACOBS. Your successtrice witness, Mary Rose Oakar, aspires to be your successtrice in other ways, I understand.

Mr. GEPHARDT. Thank you.

STATEMENT OF HON. MARY ROSE OAKAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Ms. OAKAR. Thank you, Mr. Chairman, and members of the committee, I am simply here to, first of all, compliment the committee and the chairs for asking for a GAO report on this matter. As you may or may not know, our Aging Committee under the leadership of Mr. Roybal had extensive concerns about this problem. I was astounded that this kind of sloppy computerization and bookkeeping was going on. I think you have the statistics that the average recipient loses about $17 a month and 9 million workers may be affected.

When you think of $17 a month, it doesn't sound like a lot of money, but it is significant when you consider that the average female over 65 gets a check of about $400 and 80 percent of them have no other source of income. The average man gets $550 and only 40 percent have another pension.

You are talking about a survival issue. It is a lot of money for people who have been cheated on. Whether it is accurate or not—and one of the distinguished chairs, and I don't always agree on some of the issues—but there are a lot of people out there who perceive they are being unfairly treated anyway, whether it is the notch issue or whatever comes along.

So here we have that issue compounded on. I just wanted to say, I know you want to get to that report. I know that Mr. Roybal had negotiated out along with, I am sure, the support of this commit-

tee, an agreement between the Social Security Administration and the Internal Revenue Service.

I think that is a step in the right direction but it seems to me that this committee, after you hear the results of the GAO report, which I am anxious to hear as well, might want to consider legislating.

It seems to me that this should not happen again. I am not sure you can prevent it if you don't have some kind of a legislative guideline that is mandated with a report, at least for an interim period, back to this committee, for example, or these co-committees, in terms of what they have done about the problem.

I think it is an enormous difficulty.

Interestingly enough, yesterday I had the pleasure of attending the bar association's meeting in Canada and they were talking about my earnings sharing bill relating to Social Security.

It is an interesting phenomenon that the Canadians are in many ways so much more progressive than we are. The way they have oversight over their Social Security Administration is unlike the manner in which we computerize our checks and numbers. We have a sort of omnibus national computer.

Each province has a checks and balance system related—I knew I was going to say a few words today—they have a checks and balance system in oversight over the manner in which they compute and whether they are accurate. I guess we don't have that kind of approach.

We might want to reconsider the manner in which we have oversight over the operation because I have always been concerned about that computer in Baltimore not always working. I know I will hear from Senator Mikulski, having said that, but there are some problems with the manner in which we don't look at the system in terms of the oversight.

You might want to take a look at the Canadian way of handling that situation.

Needless to say, I don't want to belabor the point. I have some testimony I will submit for the record.

I just know you are going to get to the bottom of this and make sure that the problem is resolved.

[The statement of Ms. Oakar follows:]

TESTIMONY OF
THE HONORABLE MARY ROSE OAKAR

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

THANK YOU FOR CONDUCTING THIS HEARING. I AM HAPPY TO BE ABLE TO ADD MY VOICE OF CONCERN TO THOSE BEING EXPRESSED TODAY. THIS COMPLICATED, THORNY ISSUE ADVERSELY AFFECTS MILLIONS OF OUR SENIOR CITIZENS. IT IS TIME WE SOLVED THIS PROBLEM $58.8 BILLION ONCE AND FOR ALL.

MR. CHAIRMAN, OVER THE PAST SEVERAL YEARS, THE SOCIAL SECURITY SYSTEM HAS BEEN SUBJECTED TO SEVERAL SEVERE SHOCKS THAT HAVE HAD THE EFFECT OF DESTABILIZING THE ENTIRE SOCIAL SECURITY\MEDICARE PROGRAM. SINCE THE MID 1970S, THE FOLLOWING SETBACKS HAVE ALARMED OUR CITIZENS AND UNDERMINED THEIR FAITH IN SOCIAL SECURITY AND MEDICARE; THE REFORMULATION OF SOCIAL SECURITY BENEFIT CALCULATIONS IN ORDER TO KEEP THE TRUST FUND FROM GOING BANKRUPT; HUGE TAX HIKES NEEDED TO KEEP THE SYSTEM SOLVENT; THE CREATION OF THE "NOTCH" PROBLEM; AND THE EMERGENCE OF THE 38.5% INCREASE IN PART B PREMIUMS. ALL OF THESE PROBLEMS HAVE HAD A DRAMATIC EFFECT UPON THE CONFIDENCE AMERICANS HAVE IN THE SOCIAL SECURITY SYSTEM. TAKEN COLLECTIVELY, THEY CONSTITUTE A STAGGERING BLOW.

FOR THESE REASONS, AS WELL AS OTHERS, I COMMEND YOU, MR. CHAIRMAN, FOR HOLDING THIS HEARING TO RESOLVE YET ANOTHER PROBLEM WITH SOCIAL SECURITY. THE PROBLEM OF PROPER CREDITING PROCEDURES IS ONE THAT AFFECTS AT LEAST 10 MILLION WORKERS. IN ADDITION, IT HAS BEEN ESTIMATED THAT THE AFFECTED SOCIAL SECURITY RECIPIENTS ARE LOSING AN AVERAGE OF APPROXIMATELY **$17 PER MONTH**. THIS IS AN ENORMOUS AMOUNT OF MONEY FOR AN ELDERLY WIDOW, WHO MIGHT RECEIVE AS LITTLE AS $400 IN MONTHLY BENEFITS AND WHO COUNTS ON SOCIAL SECURITY FOR HER ENTIRE INCOME. AT THE VERY LEAST, THIS PROBLEM NECESSARILY TRANSLATES INTO THE PROBABILITY THAT MANY OF THESE PEOPLE HAVE BEEN RECEIVING LESS IN SOCIAL SECURITY BENEFITS THAN THEY SHOULD. GIVEN THE NOTCH ISSUE AND THE STRONGLY-HELD BELIEF AMONG NOTCH SENIORS THAT THEY ARE VICTIMS OF MISMANAGEMENT AND CALLOUS PLANNING, WE NEED TO MOVE QUICKLY TO ALLEVIATE ANY ADDITIONAL PERCEPTIONS OF MISTREATMENT.

MR. CHAIRMAN, I AM STILL AMAZED THAT THIS PROBLEM HAS EXISTED THIS LONG. IT SEEMS TO ME THAT OFFICIALS AT THE SOCIAL SECURITY ADMINISTRATION AND THE INTERNAL REVENUE SERVICE SHOULD HAVE NOTIFIED THE CONGRESS ABOUT THIS PROBLEM SEVERAL YEARS AGO. I DON'T UNDERSTAND WHY THEY DIDN'T REPORT THE NEED FOR ADDITIONAL RESOURCES MANY YEARS BEFORE THE PROBLEM CAME TO LIGHT. I HOPE THIS SAD EPISODE PROVIDES AN OPPORTUNITY FOR ALL CONCERNED TO LEARN A VALUABLE LESSON IN PROPER ADMINISTRATION.

I AM VERY HAPPY, HOWEVER, THAT A MEMORANDUM OF UNDERSTANDING HAS BEEN SIGNED BY SSA AND IRS. THIS REPRESENTS A REAL ADVANCEMENT TOWARD RESOLVING THE PROPER CREDITING PROBLEM. HOWEVER, THE M.O.U. IS AN IMPORTANT DOCUMENT THAT WILL PROVIDE RELIEF **ONLY** IF IT IS CORRECTLY AND FAITHFULLY IMPLEMENTED. IT IS MY SINCERE HOPE THAT YOU AND THE OTHER MEMBERS OF THIS DISTINGUISHED COMMITTEE PROVIDE THE NEEDED OVERSIGHT TO ENSURE COMPLIANCE WITH THE AGREEMENT. I HAVE FAITH THAT YOUR EXPERTISE CAN SOLVE ANY UNFORSEEN DIFFICULTY IN IMPLEMENTING THE AGREEMENT.

IN ADDITION, I HOPE THE WAYS AND MEANS COMMITTEE WILL PROVIDE THE LEADERSHIP FOR ANY MID-COURSE ADJUSTMENTS TO THE M.O.U. THAT MAY BE NEEDED. UNDOUBTEDLY, THERE WILL BE DIFFICULTIES, SUCH AS THE COORDINATION OF RESOURCES OR MISUNDERSTANDINGS OF DETAILS OF THE AGREEMENT THAT WILL REQUIRE CONGRESSIONAL OVERSIGHT. I URGE YOU AND THE OTHER DISTINGUISHED MEMBERS OF THIS COMMITTEE TO CONTINUE TO PROVIDE THE NECESSARY LEADERSHIP TO COMPLETELY RESOLVE THIS IMPORTANT AND COMPLEX ISSUE.

MR. CHAIRMAN, IT IS CRUCIAL TO CORRECT THIS PROBLEM FOR THE MILLIONS OF AFFECTED SOCIAL SECURITY RECIPIENTS. WE MUST KEEP IN MIND THAT A $17 REDUCTION IN SOCIAL SECURITY BENEFITS CAN MEAN A GREAT DEAL TO SENIOR CITIZENS WHEN THEY ARE FORCED TO SUBSIST ON MEAGER EARNINGS. THE INACCURATE ACCOUNTING OF SOCIAL SECURITY EARNINGS IS A PROBLEM THAT CONTRIBUTES TO THE FEMINIZATION OF POVERTY; IT IS A PROBLEM THAT UNDERMINES THE FAITH OF MILLIONS OF AMERICANS IN THEIR SOCIAL SECURITY SYSTEM AND; IT IS A PROBLEM THAT REINFORCES PERCEPTIONS OF UNFAIRNESS AND GOVERNMENT MISMANAGEMENT. I URGE THE COMMITTEE TO MOVE NOW TO HEAL THIS FESTERING DIFFICULTY WITH A POPULAR GOVERNMENT PROGRAM THAT HELPS MILLIONS OF ELDERLY AMERICANS.

THANK YOU.

Chairman JACOBS. Mr. Pickle.

Chairman PICKLE. We are glad to have you here. Thank you.

Mr. DAUB. We know of the gentlelady's commitment to women's issues—we served together on that task force—and the committee appreciates your being here today to express yourself.

It is a serious problem. It will probably always be around to some small degree, because of the sheer volume of numbers. We would not want governors managing the data, but we do want in the final concluding payments to make sure we report and dovetail and merge and have at the right computer point the data for that individual so that individual does not lose even a dollar. That is an important concern of the committee.

We appreciate your concern.

Chairman JACOBS. Mr. Anthony.

Mr. ANTHONY. No questions.

Chairman JACOBS. Mr. Schulze.

Mr. SCHULZE. I want to thank our colleague for her testimony. We are aware of your interest and appreciate the fact that you are here.

Chairman JACOBS. Mr. Gephardt, in another hat.

Ms. OAKAR. Well, put me on the bill.

Chairman JACOBS. Mr. McGrath.

Mr. MCGRATH. You were the first to mention the extent of the problem. You said 9 million people.

Ms. OAKAR. I didn't read my testimony, but it is in the record.

Mr. MCGRATH. Of the close to 40 million who are on Social Security, you are talking about nearly a quarter of them?

Have all of these 9 million people been affected since the 1978 dates as articulated in the GAO report?

Ms. OAKAR. Yes, they are. They estimated during the hearings we had that there were at least 9 million workers and the average loss was $17 a month. Those were not our figures. It is an enormous amount.

For a person who has been cheated out of that money, certainly nonmaliciously, it is a lot of money for those people to lose. Everything is relative, but I find it astounding, and I just hope—knowing you will because of the concern Mr. Pickle and Mr. Jacobs and in a bipartisan way all of these committees have had—I really hope that you make them report back to you first and foremost what they are doing and procedurally how they are doing, because if they don't, I just think it is going to be very problematic for IRS and SSA to resolve the situation.

I think that is the minimum that should happen, beyond legislation.

Chairman JACOBS. Mr. Flippo.

Mr. FLIPPO. No questions. Thank you for holding the hearing.

Chairman JACOBS. We thank the gentlewoman for her contribution. You have contributed many times to the deliberations of our committee and we are grateful.

Ms. OAKAR. Thank you, Mr. Chairman.

Chairman JACOBS. Our next witness is Mr. Delfico, but before that the ranking member has a statement to read.

Mr. DAUB. Chairman Jacobs, Chairman Pickle, I appreciate your initiative in chairing today's joint hearing, which focuses on the ac-

curacy of SSA's earnings records. The importance of those records is obvious: they are used to determine insured status and compute monthly benefits.

Before commenting further on that matter, however, I would like to pay tribute to my friend and colleague, Bill Archer, who has served as ranking minority member on the Social Security Subcommittee since its inception. I know that he will continue to lend his expertise to us from his new post as ranking Republican on the full Ways and Means Committee. On our side of the aisle, he is recognized as the most knowledgeable member on the Social Security system and its financing. He has set a very high standard of leadership.

One of his many concerns has been the issue before us today. As a matter of fact, we were all concerned last September when GAO published its report on the backlog of wage discrepancies which had accumulated since the enactment of annual wage reporting in 1976. For retirees whose records are incomplete, the continuing underpayment of benefits is a very serious problem.

I am sure the representatives here today from the Social Security Administration and the Internal Revenue Service appreciate the gravity of the situation and realize that their current memorandum of understanding is long overdue. The wage investigations should by now be completed.

To put the issue in another perspective, the universe encompasses less than 1 percent of earnings per year. In 1988, for example, approximately $263 billion will be paid in OASDI taxes. Yet the cumulative amount of taxes collected for which no wages have been posted to individual earnings records is at this point around $5 billion for the 1978–84 period which GAO studied. That $5 billion is a miniscule fraction of the total taxes paid over that 7 years.

Employers, SSA and IRS all deserve much credit for making the system work so efficiently. Clearly the basic reporting requirements are operating smoothly. However, subsequent years have added to the total backlog of unposted earnings and to the necessity of establishing an ongoing reconciliation process for the exceptions.

I think we should recognize that no matter how finely tuned the process, some wages will not be credited, that is, some employees furnish incorrect or fraudulent Social Security numbers and disappear before the error is caught. Some fly-by-night employers withhold taxes but fail to file returns. Other employers have their records literally go up in smoke.

That is why I want to compliment Commissioner Hardy on her initiative in revising and expanding the earnings statement workers may request from Social Security. Further, I understand she plans a pilot study involving the feasibility of issuing unsolicited earnings statements. I think it is of vital importance that workers know their Social Security status.

Chairman Jacobs and Chairman Pickle, I believe it is important for us to focus on the agreement that SSA and IRS have reached to assure ourselves the backlog will be resolved satisfactorily and that an ongoing procedure to handle future differences is in place.

One of the added benefits of this hearing may be that the problem is publicized and this forum is used to encourage today's work-

ers to check periodically the completeness of their earnings records. The overwhelming majority of workers would be reassured by the accuracy and timeliness of those records. Those whose records are incomplete would be encouraged to take timely action to correct omissions, while evidence is readily available.

I look forward to hearing from today's witnesses, and thank them for appearing before us.

Chairman JACOBS. Thank you.

Mr. Delfico.

Mr. DELFICO. I would like to submit my full testimony for the record.

On my left is Jacquelyn Stewart and on my right is William Staab, who have done most of the work on this assignment.

STATEMENT OF JOSEPH F. DELFICO, SENIOR ASSOCIATE DIRECTOR, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JACQUELYN STEWART AND WILLIAM STAAB

Mr. DELFICO. I am pleased to be here today to discuss the interagency agreement for the combined annual wage reporting system which was signed by the Internal Revenue Service and the Social Security Administration on July 12, 1988. The IRS and SSA revised their interagency agreement after we reported in September 1987 that they had failed to reconcile differences in employer-reported wages.

Under the current system, employers report aggregate wage amounts quarterly to IRS and each employee's wages annually to SSA. These totals are computer matched to determine if differences exist. These differences generally occur when employers fail to report to one of the agencies or they report different amounts to each agency. Sometimes the agencies themselves err in processing reports, but these processing errors occur infrequently when compared to employer reporting errors. Omission of earnings from individuals' earnings records may eventually result in benefits which are too low.

We believe the revised agreement can be an effective vehicle for addressing and reducing future occurrences of employer reporting differences. The agreement provides for the reconciliation actions we believe are necessary and establishes what we consider to be reasonable time frames. The agencies also are designating resources for reconciling the backlog and for handling future workloads. However, though the agreement goes a long way toward reconciling future errors, early reconciliation results for past backlogs are not encouraging. I will elaborate briefly on each of these points.

Several events contributed to the former agreement's ineffectiveness. First, each agency held the other responsible for corresponding with employers to resolve SSA-related reporting differences. These were differences where the earnings reported to IRS were greater than those reported to SSA and hence appeared to have no tax potential. IRS limited its involvement to tax-related cases, and SSA argued that IRS should handle all cases because, unlike SSA, IRS had enforcement authority to penalize employers for errors in reporting. Consequently, a backlog of unreconciled reports accumu-

lated because of the agencies' disagreement. Second, the agencies did not act to address causes of employer reporting differences.

For several reasons we believe the new agreement improves the reconciliation process. First, the agreement requires actions by the appropriate parties. For 1987 and future tax years, SSA and IRS will share information that identifies employers with reporting problems. SSA will then correspond with these employers requesting information needed to correct reporting differences. Copies of wage reports will be requested to substantiate any needed corrections to SSA records. Should employers fail to respond to this request, SSA will forward pertinent information on these employers to IRS for a second contact. IRS will then correspond with the employers and ask them to provide the requested information. It will also advise them that penalties may be assessed for failing to cooperate.

Second, the agreement addresses the backlog problem and causes of reporting differences. This agreement assigns SSA exclusive responsibility for working the 1978–86 backlog, thereby resolving the longstanding dispute between IRS and SSA.

Third, the agreement addresses known causes of the problems. In 1987 the agencies undertook a joint study to look more closely at the reasons for reporting differences. As a result of the study, the agreement was fashioned to address identified causes of reporting problems. For example, employers sometimes file quarterly reports to IRS under multiple identification numbers but file an annual report to SSA under one identification number. This makes it appear that SSA has not received an employer's report when it actually has. The new agreement requires IRS to improve the cross-referencing of employers' identification numbers furnished to SSA.

Finally, the agreement strengthens the periodic review process and holds the agencies accountable for nonperformance of designated responsibilities. The new agreement requires an IRS/SSA work group to evaluate the effectiveness of operations under the agreement, annually review data exchanges between the agencies and provide a joint report with recommendations to the Commissioners of SSA and IRS. It requires that if either agency is unable to perform for any reason, the Commissioner of that agency must give the other Commissioner written notice and proposed remedial actions.

For these reasons, we believe that under the revised agreement the agencies can more effectively reconcile reporting differences.

Our September 1987 report disclosed that IRS and SSA had been slow to resolve their differences in reconciling reports. IRS initially had responsibility for reconciling all wage reports. But as early as 1980, IRS informed SSA that it would not work SSA-related cases. For 1978 and later tax years, SSA accepted information from IRS identifying these cases but did not begin working them until 1986. As a result, SSA did not contact some employers to request them to explain their reporting differences until as long as 7 years after the reports were originally due.

The new agreement spells out time frames for IRS and SSA to exchange data needed to identify employers with reporting problems who must be contacted. The first contact with employers will be about 1 year after the reports are due.

For example, SSA will complete the processing of tax year 1987 wage reports around the fall of 1988. SSA will then provide IRS with information on the employers' reports it processed. IRS will use this information to compare employers reporting to SSA with its own records. The agreement requires IRS to give SSA, by March 1, 1989, information on the employer reports which show that more wages were reported to IRS. SSA will use this information to contact employers and request that they explain their reporting differences.

By November 1, 1989, the agreement requires SSA to forward information on nonresponding employers to IRS. By early 1990, IRS should mail followup correspondence to employers requesting explanations of reporting differences and advising them of the penalties for noncompliance.

Regarding the 1978–86 cases to be worked solely by SSA, to date SSA has mailed a first and, when necessary, a second correspondence to employers for most 1978–83 cases. SSA expects to mail the first correspondence to employers for the 1984–86 backlog early next year. While the agreement does not specify when SSA should complete work on these cases, SSA said it will have contacted all employers involved by the end of 1989.

The time frames relating to the exchange of reconciliation data and SSA's plans for completing work on the backlog appear reasonable. The required performance period for exchanging reconciliation data allows SSA sufficient time to correspond with and receive responses from employers before IRS followup with nonresponders. Additionally IRS will have sufficient time to follow up within the 4-year record retention period required by the Tax Code and request that employers provide wage data.

With regard to the 1984–86 backlog, SSA's experience in working 6 years of the backlog, 1978–83, in about 3 years indicates that SSA should be able to work the remaining 3 years of the backlog within the next year.

It is difficult to judge the adequacy of resources. From 1978 to 1986, each agency devoted minimal resources to reconciling differences in employer reports.

SSA's fiscal year 1987 and 1988 budgets included 355 and 290 work years respectively for reconciling the 1978–83 backlog. The agency's fiscal year 1989 budget includes 290 work years for reconciling the 1984–86 backlog, as well as tax year 1987 reports. On the surface these numbers appear reasonable.

IRS' proposed fiscal year 1990 budget includes 93 staff years for handling SSA referrals. IRS estimates it can handle 175,000 SSA-referred cases at this staff level. Without knowledge of IRS' future workload and procedures, we cannot adequately assess IRS' resource plans.

We find it is difficult to predict the completeness of reconciliation under the new agreement. The effectiveness of reconciliation depends on factors such as being able to locate employers, contacting them before the 4-year record retention requirement expires, and having them cooperate with the information request.

We reviewed the results of SSA's working the 3.5 million reports included in the 1978–83 backlog to get an idea on the extent to which these factors influence the outcome. Our review showed that

as of June 10, 1988, most of the differences in employer reports to the two agencies have not been resolved and likely will not be.

As of June 10, 1988, about 17 percent of the reports had been reconciled. This category includes cases where employers either submitted wage data for SSA to process or provided information that enabled SSA to determine that earnings had been reported to SSA but under a different identification number.

About 29 percent of the cases are still pending. This category includes cases for which SSA: one, has received employer responses but not completed work to close cases—2 percent; or, two, had previously excluded from its workload because the reporting difference was below an applied tolerance—27 percent. Due to lowering the tolerance, SSA will now contact about one-half of the employers whose cases were previously excluded.

For over half the cases in the 1978–83 backlog, SSA has been unsuccessful to date in reconciling differences. SSA could not reconcile about 25 percent of the reports because the employers could not be contacted for reasons such as business closing or relocations or they responded that they no longer had wage data available. This situation highlights the need for timely contacts to reconcile differences.

Finally, for the remaining cases, about 29 percent, it is uncertain to what extent they will be reconciled. This category includes employers who have not responded to SSA's first and second correspondence effort. SSA attempts to contact employers up to two times. If no response is received, SSA generally will make no further reconciliation contacts. It will, however, accept and process wage data should these employers later submit reports.

There are no plans to forward these cases to IRS for possible enforcement action. IRS pointed out that questions exist as to whether IRS could assess penalties based solely on SSA's certification that employers failed to report. This is a problem because until recently SSA did not record the receipt of wage reports.

Despite SSA's limited success in working the backlog, the results of future work under the new agreement should be better. Because reconciliation will begin the year after employers' reports were due, it is less likely that the businesses will have terminated or relocated. As a result, more employers will be contacted and should have wage data available, and IRS will use its enforcement authority to encourage employer cooperation.

Last, one SSA project, unrelated to the interagency agreement but related to the issue of the reporting of earnings, is SSA's newly developed earnings and benefit statement.

Starting this month SSA plans to make available, upon request, an estimate of social security benefits and a statement of all earnings posted to an individual's account. Starting in 1991 SSA plans to pilot test sending these statements to all workers over age 25 on a periodic basis. This will provide a way for them to check the accuracy of earnings posted to their account.

We support this effort and think it will help individuals to identify and resolve problems associated with unreconciled earnings.

This concludes my statement. I will be happy to answer questions.

[The prepared statement follows:]

STATEMENT OF JOSEPH F. DELFICO, SENIOR ASSOCIATE DIRECTOR, UNITED STATES GENERAL ACCOUNTING OFFICE

Mr. Chairman and Members of the Subcommittees:

I am pleased to be here today to discuss the interagency agreement for the Combined Annual Wage Reporting System which was signed by the Internal Revenue Service (IRS) and the Social Security Administration (SSA) on July 12, 1988. The IRS and SSA revised their interagency agreement after we reported in September 1987[1] that they had failed to reconcile differences in employer reported wages.

Under the current system employers report aggregate wage amounts quarterly to IRS and each employee's wages annually to SSA. These totals are computer matched to determine if differences exist. These differences generally occur when employers fail to report to one of the agencies or they report different amounts to each agency. Sometimes the agencies themselves err in processing reports but these processing errors occur infrequently when compared to employer reporting errors. Omission of earnings from individuals' earnings records may eventually result in benefits which are too low.

We believe the revised agreement can be an effective vehicle for addressing and reducing future occurrences of employer reporting differences. The agreement provides for the reconciliation actions we believe are necessary and establishes what we consider to be reasonable timeframes. The agencies also are designating resources for reconciling the backlog and for handling future workloads. However, though the agreement goes a long way toward reconciling future errors, early reconciliation results for past backlogs are not encouraging. I will elaborate briefly on each of these points.

THE AGREEMENT PROVIDES FOR NEEDED RECONCILIATION ACTIONS

Several events contributed to the former agreement's ineffectiveness. First, each agency held the other responsible for corresponding with employers to resolve SSA-related reporting differences. These were differences where the earnings reported to IRS were greater than those reported to SSA and, hence, appeared to have no tax potential. IRS limited its involvement to tax-related cases, and SSA argued that IRS should handle all cases because, unlike SSA, IRS had enforcement authority to penalize employers for errors in reporting. Consequently, a backlog of unreconciled reports accumulated because of the agencies' disagreement. Secondly, the agencies did not act to address causes of employer reporting differences.

For several reasons, we believe the new agreement improves the reconciliation process. First, the agreement requires actions by the appropriate parties. For 1987 and future tax years, SSA and IRS will share information that identifies employers with reporting problems. SSA will then correspond with these employers requesting information needed to correct reporting differences. Copies of wage reports will be requested to substantiate any needed corrections to SSA records. Should employers fail to respond to this request, SSA will forward pertinent information on these employers to IRS for a second contact. IRS will then correspond with the employers and ask them to provide the requested information. It will also advise them that penalties may be assessed for failing to cooperate.

Second, the agreement addresses the backlog problem and causes of reporting differences. This agreement assigns SSA exclusive responsibility for working the 1978-86 backlog, thereby resolving the longstanding dispute between IRS and SSA.

---

[1] Social Security: More Must Be Done To Credit Earnings to Individual's Accounts (GAO/HRD-87-52, September 18, 1987)

In 1987 the agencies undertook a joint study to look more closely at the reasons for reporting differences. As a result of the study, the agreement was fashioned to address identified causes of reporting problems. For example, employers sometimes file quarterly reports to IRS under multiple identification numbers but file an annual report to SSA under one identification number. This makes it appear that SSA has not received an employer's report when it actually has. The new agreement requires IRS to improve the cross-referencing of employers' identification numbers furnished to SSA.

Finally, the agreement strengthens the periodic review process and holds the agencies accountable for nonperformance of designated responsibilities. The new agreement requires an IRS/SSA work group to evaluate the effectiveness of operations under the agreement, annually review data exchanges between the agencies, and provide a joint report with recommendations to the Commissioners of SSA and IRS. It requires that if either agency is unable to perform for any reason, the Commissioner of that agency must give the other Commissioner written notice and proposed remedial actions.

For the above reasons, we believe that under the revised agreement the agencies can more effectively reconcile reporting differences.

TIMEFRAMES APPEAR REASONABLE

Our September 1987 report disclosed that IRS and SSA had been slow to resolve their differences in reconciling reports. IRS initially had responsibility for reconciling all wage reports, but as early as 1980, informed SSA that it would not work SSA-related cases. For 1978 and later tax years, SSA accepted information from IRS identifying these cases but did not begin working them until 1986. As a result, SSA did not contact some employers to request them to explain their reporting differences until as long as 7 years after the reports were originally due.

The new agreement spells out timeframes for IRS and SSA to exchange data needed to identify employers with reporting problems who must be contacted. The first contact with employers will be about one year after the reports are due.

For example, SSA will complete the processing of tax year 1987 wage reports around the Fall of 1988. SSA will then provide IRS with information on the employers' reports it processed. IRS will use this information to compare employers reporting to SSA with its own records. The agreement requires IRS to give SSA, by March 1, 1989, information on the employer reports which show that more wages were reported to IRS. SSA will use this information to contact employers and request that they explain their reporting differences. By November 1, 1989, the agreement requires SSA to forward information on non-responding employers to IRS. By early 1990, IRS should mail follow-up correspondence to employers requesting explanations of reporting differences and advising them of the penalties for non-compliance.

Regarding the 1978-86 cases to be worked solely by SSA, to date, SSA has mailed a first and when necessary, a second correspondence to employers for most 1978-83 cases. SSA expects to mail the first correspondence to employers for the 1984-86 backlog early next year. While the agreement does not specify when SSA should complete work on these cases, SSA said it will have contacted all employers involved by the end of 1989.

The timeframes relating to the exchange of reconciliation data and SSA's plans for completing work on the backlog appear reasonable. The required performance period for exchanging

reconciliation data allows SSA sufficient time to correspond with and receive responses from employers before IRS follows-up with nonresponders. Additionally, IRS will have sufficient time to follow-up within the 4 year record retention period required by the tax code and request that employers provide wage data.

With regard to the 1984-86 backlog, SSA's experience in working 6 years of the backlog (1978-83) in about 3 years indicates that SSA should be able to work the remaining 3 years of the backlog within the next year.

ADEQUACY OF RESOURCES: DIFFICULT TO JUDGE

From 1978 to 1986 each agency devoted minimal resources to reconciling differences in employer reports. In 1980, IRS informed SSA that it lacked resources to reconcile cases where employers reported more wages to it than to SSA. SSA received information from IRS on the unworked cases, but it did not attempt to resolve the differences.

Both SSA and IRS have budgeted staff levels for handling the workload but judging the adequacy of the staff levels is difficult because of uncertainties over workloads and procedures. Several factors make future workloads difficult to predict. On the one hand the anticipated workload of employer reporting differences should be reduced due to agencies' actions to address known causes of reporting differences. On the other hand, SSA has taken actions that will increase the number of cases it will work by reducing the tolerance[2] it applies in deciding whether to reconcile discrepant reports. Additionally, because future reconciliation efforts will involve more current reports, it is likely employer responses will be higher and SSA will have more reports to process. It is also unclear how many cases will be referred to IRS for follow-up.

SSA will basically follow the same reconciliation procedures for tax year 1987 and future years as it did for working backlogged cases. However, SSA is also planning telephone contacts with employers having large discrepancies who do not respond to correspondence. It estimates that about 13,000 such calls might be made each year. IRS has not developed procedures yet for handling referred SSA cases. IRS told us that its procedures could include more than one correspondence with employers, face-to-face contact with employers, and assessing and collecting penalties.

Given these uncertainties it is difficult to judge the adequacy of resource plans. SSA's fiscal year 1987 and 1988 budgets included 355 and 290 work years respectively, for reconciling the 1978-83 backlog. The agency's fiscal year 1989 budget includes 290 work years for reconciling the 1984-86 backlog as well as tax year 1987 reports. On the surface, these numbers appear reasonable.

IRS' proposed fiscal year 1990 budget includes 93 staff years for handling SSA referrals. IRS estimates it can handle 175,000 SSA referred cases at this staff level. Without knowledge of IRS' future workload and procedures, we can not adequately assess IRS' resource plans.

EFFECTIVENESS OF RECONCILIATION

We find it is difficult to predict the completeness of reconciliation under the new agreement. The effectiveness of reconciliation depends on factors such as being able to locate employers, contacting them before the 4 year record retention

---

[2]The new tolerance is equal to the dollar amount needed to earn a quarter of coverage.

requirement expires, and having them cooperate with the information request.

We reviewed the results of SSA's working the 3.5 million reports included in the 1978-83 backlog to get an idea on the extent to which these factors influence the outcome. Our review showed that as of June 10, 1988, most of the differences in employer reports to the two agencies have not been resolved and likely will not be.

As of June 10, 1988, about 17 percent of the reports had been reconciled. This category includes cases where employers either submitted wage data for SSA to process or provided information that enabled SSA to determine that earnings had been reported to SSA but under a different identification number.

About 29 percent of the cases are still pending. This category includes cases for which SSA (1) has received employer responses but not completed work to close cases (2 percent) or (2) had previously excluded from its workload because the reporting difference was below an applied tolerance (27 percent). Due to lowering the tolerance, SSA will now contact about one half of the employers whose cases were previously excluded.

For over half the cases in the 1978-83 backlog, SSA has been unsuccessful to date in reconciling differences. SSA could not reconcile about 25 percent of the reports because the employers could not be contacted for reasons such as business closing or relocations or they responded that they no longer had wage data available. This situation highlights the need for timely contacts to reconcile differences.

Finally, for the remaining cases (about 29 percent), it is uncertain to what extent they will be reconciled. This category includes employers who have not responded to SSA's first and second correspondence effort. SSA attempts to contact employers up to two times. If no response is received, SSA generally will make no further reconciliation contacts. It will, however, accept and process wage data should these employers later submit reports. There are no plans to forward these cases to IRS for possible enforcement action. IRS pointed out that questions exist as to whether IRS could assess penalties based solely on SSA's certification that employers failed to report. This is a problem because until recently, SSA did not record the receipt of wage reports.

Despite SSA's limited success in working the backlog, the results of future work under the new agreement should be better. Because reconciliation will begin the year after employers' reports were due, it is less likely that the businesses will have terminated or relocated. As a result, more employers will be contacted and should have wage data available, and IRS will use its enforcement authority to encourage employer cooperation.

Lastly, one SSA project unrelated to the interagency agreement but related to the issue of the reporting of earnings, is SSA's newly developed earnings and benefit statement. Starting this month SSA plans to make available, upon request, an estimate of social security benefits and a statement of all earnings posted to an individual's account. Starting in 1991 SSA plans to pilot test sending these statements to all workers over age 25 on a periodic basis. This will provide a way for them to check the accuracy of earnings posted to their account. We support this effort and think it will help individuals to identify and resolve problems associated with unreconciled earnings.

This concludes my statement. I will be happy to answer questions.

90-976 0 - 89 - 2

Chairman JACOBS. Mr. Daub?

Mr. DAUB. I am going to pass for a moment.

Chairman JACOBS. Are there any questions?

Mr. SHAW. Why can't we devise some sort of a joint statement for Social Security and the IRS?

Mr. DELFICO. We had one in 1978. There was one source for the earnings reports. It was determined at that time, however, because of the paperwork load on employers, that that particular reporting system was too burdensome. So the current annual wage reporting system was devised to get around that problem.

Mr. SHAW. If the employer has to file a statement with regard to the income and to the income and FICA taxes withheld, why not do it on one report?

Mr. DELFICO. You can do it. It is just that it is not done that way in this current system.

The current system was set up so that the IRS forms W-2's and W-3's are sent to SSA to have them post earnings in the individual earnings accounts. That is an annual report.

The 941's are the reports sent to IRS by employers and include employer totals only. The total sums are matched at the end of the year with the data that SSA receives . This is where the discrepancies occur.

Mr. Shaw, your question is a good one. You can have one system, technically.

Mr. SHAW. Couldn't it be simplified so that the objection to the 1978 statements could be eliminated using a cumulative reporting type of system, so that one report is continued from quarter to quarter, as required. Couldn't the employee receive a copy of that?

It seems to me a simplified reporting system could be devised so you don't have the reconciliation problem. The total figures and the information given to this committee is really quite appalling. I think a lot of it could be simplified by combining it with the reporting system.

I applaud you for your comments with regard to sending copies to the employees. I can tell you, with all of the mail and information that is given to consumers and taxpayers today, some would look at it and shrug their shoulders and deep-six it. I would be surprised if 20 percent of the employees would sit down and see if it was done correctly. Then they probably would not understand it and they would go back to the employer.

I wonder what effect that would have.

Thank you.

Mr. DAUB. Do you think SSA needs the same "enforcement authority" on employers who file late or fail to file?

Mr. DELFICO. I question whether they would use it. SSA rarely uses the penalty authority that it now has.

I won't get into the culture and background of the agency, but basically they don't use it.

Mr. SHAW. May I follow up?

When I said let the IRS do the enforcement for SSA——

Mr. DELFICO. The new agreement is designed around that point. IRS will do the enforcement. After correspondence has been sent out by SSA, IRS will take over contacting employers who do not respond.

Mr. DAUB. Do you look at the idea of whether the enforcement authorities are enforcing the beneficiary's point of view or the agency's point of view? Is there a reluctance to go after the beneficiary?

Mr. DELFICO. There may be some reluctance there, too.

Mr. DAUB. I think the memorandum of understanding was done very clearly. I think it has helped a lot. I really want to commend you for the work you have done to put this together.

Are we talking about a big problem or a little problem, from your point of view?

The volume of people, the number of accounts, workers versus entries, the employers' side of it, the reporting side of it, dollar volume versus the number—are we looking at something that statistically from an accounting point of view becomes de minimis after a while?

Mr. DELFICO. If I was to answer that based on statistics alone, I would have to say yes, less than 1 percent of the total earnings have not been posted.

On the other hand, there is evidence to show that the people being hurt the most are the ones that need their benefits the most, the low-wage earners.

Mr. DAUB. I happen to think people will read their mail, more than some, particularly this kind of mail, if it is done correctly. You will always have some that won't. But, lets try to get to a point where we have a process every 15 or 10 years where everybody at least looks—I don't remember when I checked mine last. I think I did once. I think it was when I changed jobs a couple of times ago.

The idea of getting that done almost automatically, would that solve the problem? Could we run a pilot project to see what the paperwork load would be and how much Government work will be required? Then every 2 or 4 or 5 years, you get a certain quadrant of the population that is headed toward age 62 and force more verification than is being done now?

Mr. DELFICO. I think there is an experiment going on now at SSA that will probably give you indications of an answer to that question. SSA's benefit and earnings statements project will be active this month. The representative from SSA would probably have some more details. I understand there has been quite a response to that from the general public.

So after looking at results from this project, we will get a better idea.

Mr. DAUB. In your analysis, 50 percent of retirees automatically checked and got their own records corrected.

Can you project anything from that?

Mr. DELFICO. Yes, you can, in the sense that 50 percent of the people filing claims—and that is where the statistics came from—will have their earnings statements reviewed by a claims representative or by themselves.

I don't have any reliable statistics to show how many errors are found, although we have seen some recent data that shows about 3 percent of the people checking earnings at that time found errors. But those numbers are kind of soft. We are still talking about large numbers of people.

Mr. DAUB. Thank you for the work you have done. It is very useful.

Chairman PICKLE. Mr. Delfico, in your testimony you stressed the need for rapid action to reconcile the wage records. Where the statute of limitations requiring them to keep the records is about to expire, you say there is a need for rapid action.

What do you think should be done?

Mr. DELFICO. We think the outside limits as far as contacting employers is concerned should be 4 years, because that is currently the record retention period that by law employers are required to hold records.

Clearly we would like to see action a lot quicker than that.

Chairman PICKLE. That is not my question.

You say there is a need for this rapid action. What do you recommend?

I hear you, and we agree there is some need. What do you mean as far as action is concerned, and what do you plan to do now?

Mr. DELFICO. We recommend they do it immediately, as soon as they have the information available.

Chairman PICKLE. I am trying to get some idea of what you are going to do as far as action is concerned.

Mr. DELFICO. We have recommended that they accelerate their process. The agreement I have seen looks as though they will notify employers within a year after the employers have submitted their records.

Chairman PICKLE. You are recommending that they take immediate action?

Mr. DELFICO. Yes, we recommend that they deal with the backlog.

Chairman PICKLE. In the Federal lawsuit that was filed and in the response made by the Government, the Government said with reference to the amount of money that might be lost by beneficiaries that the estimates of average benefit loss made by the GAO overstate the circumstances. That is their statement, your estimate of $17 monthly benefit overstates the circumstances.

Are you satisfied with your estimate?

Mr. DELFICO. We are satisfied with our estimate, Mr. Chairman. We just saw that report yesterday. We do state in our report and for the record that our estimate is based on a representative sample but not a scientifically selected sample.

Chairman PICKLE. Have you discussed this with the administration?

Mr. DELFICO. Yes.

Chairman PICKLE. What did they say?

Mr. DELFICO. They were aware of how we did our work. We took a conservative approach to estimating.

Chairman PICKLE. You have estimated a certain amount. Now are you saying to me that you are satisfied with that estimate?

Mr. DELFICO. We are satisfied that it represents the estimate of one's losses in our sample if their employer had not filed an earnings report.

Chairman PICKLE. Your estimate, based on the model that you used, was $17.

Are you satisfied that that is the amount, still?

Mr. DELFICO. No, in one respect we are not satisfied with the amount still, because we based it on 1981 and 1982 data.

Chairman PICKLE. Would it be more or less?

Mr. DELFICO. If you inflate that dollar amount you would get close to $25 in 1988 dollars.

Chairman PICKLE. Have you indicated that to the Administration?

Mr. DELFICO. We have talked to them at great length about our methodology. SSA made the estimates for us.

Chairman PICKLE. Are you going to revise your figures or just take the $17 with the understanding now that with the inflation it might be $25?

Mr. DELFICO. We are standing pat with what we said in the report.

Chairman PICKLE. But it is understood that it might be as much as $25, and the administration knows that?

Mr. DELFICO. It could be, including inflation.

Chairman PICKLE. Thank you.

Chairman JACOBS. In answer to a question propounded by Mr. Shaw, you said that the IRS would have enforcement responsibilities. You didn't say it is prospective.

It is not retrospective, is it?

Mr. DELFICO. They have enforcement responsibilities for nonfiling of reports.

Chairman JACOBS. But in cleaning up the disparities in the past, the agreement does not include the same responsibilities, does it?

Mr. DELFICO. They are not involved in cleaning up the past reconciliations.

Chairman JACOBS. If it is a good idea prospectively, why is it bad retrospectively?

Mr. DELFICO. I would feel that it would probably be better to have those both retrospectively and prospectively.

Chairman JACOBS. Be careful, you might get in trouble thinking logically.

Mr. Gephardt.

Mr. GEPHARDT. First, in your testimony about effectiveness of compliance, you make a number of statements. I would like to press further and ask if you think more staff, and particularly in the area of making more phone contacts as opposed to letter contacts, would be advisable to try to get better effectiveness.

Mr. DELFICO. Yes, more staff and phone contacts would probably be more effective.

Mr. GEPHARDT. In your testimony on staff, you come to no kind of result. You find it hard to judge whether or not they need more people.

How can we come down on that harder? Is there a way to make a judgment?

Mr. DELFICO. For the future workload that is very difficult to do because of the situation. We don't know what the demand is going to be for the reconciliation. That is the key to the workload estimate.

The 175,000 cases IRS says they can process is quite a bit less than the annual caseload that is being reconciled. I think 500,000 cases or so a year need to be reconciled.

But the thinking is that there won't be as many cases to reconcile because the agreement has set up a mechanism for contacting employers right away. I can't argue with you on that logic. It sounds reasonable to me.

Mr. STAAB. SSA is going to apply about 300 positions a year, which is close to what they have been applying in the previous years. They are becoming more efficient as they deal with reconciliation.

In terms of numbers, it seems SSA can handle its workload within 1 year. IRS has not defined what it is really going to do when it gets cases referred to them. Further, we don't know how many cases will be referred to IRS because SSA will be working cases much quicker and getting to employers much quicker. Thus, it is very likely there will be fewer cases that need to go to IRS for resolution.

So you really don't know how the new agreement will squeeze down the ultimate number of cases IRS will have to work, and it has not defined what it is going to do with the cases that are referred to it.

Given both uncertainties, it is hard to say whether they will get 100,000 or 75,000 or fewer cases to work. This makes it difficult to judge whether 93 staff years will be sufficient. We don't know what they are going to do to try to resolve the cases. If it is largely a correspondence effort, you know that the work efforts will be largely done by machine-generated letters. As responses are received, IRS will work with them.

At this time it is impossible to judge whether IRS staffing at 93 years is sufficient.

Mr. GEPHARDT. I assume if you cannot find an employer that ultimately there is no way to reconcile?

Mr. DELFICO. That is the case.

Mr. GEPHARDT. What if the recipient finds out or learns about all of this from one of these public education efforts that I have been advocating? Does that work or not?

Mr. DELFICO. Yes, if it is one of two forms it will work, and they can get their wages credited. They do that now when they file a claim and they can get their wages credited.

Mr. GEPHARDT. Do you think the public education efforts are adequate, or do you think, as our bill calls for, that we could do more to try to alert people to this possibility?

Mr. DELFICO. We have not looked into that and I would be uncomfortable answering it.

My gut reaction is that there may not be enough education. In this case I think the SSA has quite an effort out there trying to educate the public. But, I don't know how much more you need, frankly, at this stage of the game.

Mr. GEPHARDT. Thank you, Mr. Chairman.

Chairman JACOBS. We express our gratitude to GAO for this efficient and objective information.

[The following are questions submitted to GAO and their responses:]

ONE HUNDREDTH CONGRESS
DAN ROSTENKOWSKI, ILLINOIS, CHAIRMAN

SAM M. GIBBONS, FLORIDA
J.J. PICKLE, TEXAS
CHARLES B. RANGEL, NEW YORK
FORTNEY H. (PETE) STARK, CALIFORNIA
ANDY JACOBS, JR., INDIANA
HAROLD FORD, TENNESSEE
ED JENKINS, GEORGIA
RICHARD A. GEPHARDT, MISSOURI
THOMAS J. DOWNEY, NEW YORK
FRANK J. GUARINI, NEW JERSEY
MARTY RUSSO, ILLINOIS
DON J. PEASE, OHIO
ROBERT T. MATSUI, CALIFORNIA
BERYL ANTHONY, JR., ARKANSAS
RONNIE G. FLIPPO, ALABAMA
BYRON L. DORGAN, NORTH DAKOTA
BARBARA B. KENNELLY, CONNECTICUT
BRIAN J. DONNELLY, MASSACHUSETTS
WILLIAM J. COYNE, PENNSYLVANIA
MICHAEL A. ANDREWS, TEXAS
SANDER M. LEVIN, MICHIGAN
JIM MOODY, WISCONSIN

JOHN J. DUNCAN, TENNESSEE
BILL ARCHER, TEXAS
GUY VANDER JAGT, MICHIGAN
PHILIP M. CRANE, ILLINOIS
BILL FRENZEL, MINNESOTA
DICK SCHULZE, PENNSYLVANIA
BILL GRADISON, OHIO
WILLIAM M. THOMAS, CALIFORNIA
RAYMOND J. McGRATH, NEW YORK
HAL DAUB, NEBRASKA
JUDD GREGG, NEW HAMPSHIRE
HANK BROWN, COLORADO
ROD CHANDLER, WASHINGTON

ROBERT J. LEONARD, CHIEF COUNSEL
M. KENNETH BOWLER, STAFF DIRECTOR

A.L. SINGLETON, MINORITY CHIEF OF STAFF

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

August 18, 1988

Mr. Joseph F. Delfico
Senior Associate Director
General Accounting Office
4441 S Street, N.W.
Washington, D.C. 20548

Dear Mr. Delfico:

Thank you for your recent testimony before the Subcommittees on Social Security and Oversight of the Committee on Ways and Means on the crediting of earnings to social security accounts. At the conclusion of your testimony, we indicated that some Members of the Subcommittees might wish to submit additional questions to you for the hearing record. We are writing now to ask you to respond to the following questions from Representative Hal Daub:

1. In GAO's view does the proposed tolerance, $470 for 1988, strike a reasonable balance between the potential benefit loss to workers and the cost effectiveness of program administration?

2. What about the $500,000 tolerance for employer telephone contacts?

Thank you for responding to these questions. So that your answers can be included in our hearing record, please respond to the Subcommittee on Social Security no later than close of business on Friday, September 16th.

Sincerely,

J.J. Pickle, Chairman
Subcommittee on Oversight

Andy Jacobs, Chairman
Subcommittee on Social Security

GAO
United States
General Accounting Office
Washington, D.C. 20548

Human Resources Division

September 16, 1988

The Honorable Andy Jacobs
Chairman, Subcommittee on Social Security
House of Representatives

The Honorable J.J. Pickle
Chairman, Subcommittee on Oversight
House of Representatives

This letter responds to your August 18, 1988, letter seeking our views on two administrative tolerances applied by the Social Security Administration (SSA) in its wage reconciliation efforts. SSA uses tolerances to reduce the size of its reconciliation workload. The tolerances are supposed to screen out cases where the known wage differences are (1) unlikely to adversely affect workers and/or (2) not considered cost effective to correct. One tolerance governs whether SSA will attempt to contact an employer to reconcile differences in wages reported to the Internal Revenue Service (IRS) and itself. The other tolerance governs whether SSA will reconcile wage differences by attempting to telephone employers who have twice failed to respond to letters.

Both tolerances represent policy judgments. In making these judgments SSA weighs the extent to which it should use allocated resources to attempt reconciliation of all wage reports when some differences are not likely to affect benefits or eligibility.

We believe that SSA's reconciliation strategy should direct its available resources first to those reports having the largest number of affected workers. To the extent that resources are available, progress toward reconciling wage reports involving fewer workers and lower amounts should continue, absent evidence that such cases are not cost effective to reconcile. In this regard, SSA's decision to not pursue wage differences below the amount needed to earn a quarter of coverage appears reasonable because the probability of adverse effects on benefits is very low compared to the cost of reconciliation. However, SSA's decision to telephone only employers having at least $500,000 in wage differences warrants further consideration. SSA studies indicate that contacting employers with lower amounts of wage differences can be just as successful as contacting the employers with higher amounts. Our analysis of work tolerances follows.

RECEIVED
SEP 1 6 1988

QUARTER OF COVERAGE TOLERANCE

SSA recently announced that it will use only one tolerance--the dollar amount needed to earn a quarter of coverage--in deciding whether to reconcile differences in wages reported to the IRS and itself. This is a change from its previous tolerance practice that we reported on in our September 1987 report.[1] In that report we noted that SSA was using two tolerances in its reconciliation program. For missing reports SSA used the dollar amount needed to earn a quarter of coverage as its tolerance. But for discrepant reports SSA used a higher tolerance of $1,785. In response to our recommendation, SSA reexamined the tolerances and decided to use only the quarter of coverage tolerance in all cases because the higher tolerance was going to cause some beneficiaries to lose benefits.

Under the new tolerance, SSA will not attempt to reconcile wage reports with differences below the amount needed to earn a quarter of social security coverage. This amount is automatically adjusted each year to account for earnings level changes in the economy. For example, in 1978 an individual needed $250 in wages to earn credit for a quarter of coverage; by 1988 the amount required was $470. While the application of this tolerance could reduce social security benefits payable or result in a loss on entitlement under certain circumstances, we believe that the chances of these occurrences are remote.

First, the use of this tolerance is not likely to affect benefit amounts. Given the manner in which benefits are calculated, a one time understatement of wages by an amount less than the tolerance may only negligibly reduce the amount of benefits paid on the worker's account. Benefits are based on earnings which are indexed and averaged over a worker's covered lifetime wages. Also, earnings for the 5 lowest years are excluded from the benefit computation formula. Thus, a small understatement of earnings on SSA's records could involve a low earnings year--subject to being dropped out of the computation formula--but if not, the error would be averaged out over the years of employment and is unlikely to significantly effect the benefit amount.

Also, we believe it is unlikely that this tolerance would create significant eligibility problems. A person must be insured under the social security program before benefits can

---

[1]Social Security: More Must Be Done to Credit Earnings to Individuals' Accounts (GAO/HRD-87-52, September 18, 1987).

be paid. SSA determines a person's insured status by the number of quarters of coverage credited to a worker's social security record. Under certain conditions, the tolerance could cause a worker to lose credit for a quarter. For example, if a person (1) worked for more than one employer during the year, (2) had aggregate wages that equaled or exceeded the amount needed to earn credit for the quarter, but the wages from each employer were below the amount needed to get credit for a quarter, and (3) any of the employers failed to report wages, the worker could lose credit for the quarter. This could affect eligibility for benefits if the worker was one quarter short of having insured status.

SSA has procedures to address such problems. Errors could likely be identified when an application for benefits was filed. At time of application, a wage earner's record would be reviewed, particularly if the absence of a quarter of coverage was preventing the payment of a benefit.

By applying a quarter of coverage tolerance, SSA devotes its resources to reconciling employers' reports that are most likely to adversely affect workers if not corrected. Although it would be ideal to contact every employer to resolve differences, we think the tolerance strikes a reasonable balance between public service and practical program administration given limited resources.

CONTACTING EMPLOYERS BY TELEPHONE

To reconcile wage reports, SSA will make up to two attempts to resolve differences before referring the unresolved employer reports to IRS. These reconciliation attempts consist of SSA mailing two computer generated letters to employers that detail the amount of wages in question and the employer identification number in question.

SSA recently stated that in certain cases it will take an additional action to resolve employers' reporting differences before referring cases to IRS. Specifically, if "larger employers" have not responded to its two letters, SSA will attempt to contact these employers by telephone. SSA has defined larger employers as those having wages of at least $500,000 that were not on SSA records.

The $500,000 cutoff is based on two internal studies. In the first study, SSA contacted by telephone a sample of employers who had at least this amount of 1978 and 1983 combined wages missing from its records. SSA's study found that

-- most large firms did their own accounting, and it took SSA about 1 hour to process each case, and

-- SSA was able to contact 42.5 percent of these employers and of these, 45 percent provided information.

Overall, the use of the telephone resulted in reconciling 19 percent of the total attempts.

Later, SSA made a second study of 110 smaller employers. These employers had between $50,000 and $499,000 in 1978 and 1983 combined wages that SSA had not recorded. The study found that

-- because one-third of these employers used outside accounting firms, SSA's processing time for these cases was doubled to 2 hours per case, and

-- SSA was able to contact 32.5 percent of these employers and 35 percent subsequently provided further information.

Overall, the use of the telephone resulted in reconciling 11.4 percent of the total attempts.

The studies quantified SSA's success in contacting employers to seek information needed to reconcile the wage differences. The following table shows the contact success rates stratified by the dollar amount of wages not reported to SSA.

TELEPHONE CONTACT SUCCESS RATES BY AMOUNT OF WAGE DISCREPANCY

Level	Dollars not reported (dollars)	Contact success (percent)
	First study	
1	over 2 million	55
2	1 to 2 million	40
3	750,000-999,999	40
4	500,000-749,999	35
	Second study	
5	250,000-499,999	50
6	100,000-249,999	35
7	75,000-99,999	15
8	50,000-74,999	30

Based on these studies, SSA concluded that the increasing cost and decreasing success rates associated with contacting smaller employers did not justify such an effort. The latter study did note, however, that it may be worthwhile to contact employers with at least $250,000 in wage differences since SSA was able to contact about 50 percent of this group.

We believe that SSA's willingness to go beyond the requirements of its agreement with IRS shows a good faith effort to resolve the reconciliation problems. However, for several reasons, we believe the amount of the tolerance warrants further consideration.

First, with the exception of level 7 cases, we noted that the contact success rates for the various wage levels clustered at 35 and 40 percent for both large and small employers. Also, the latter study found that increased processing costs would not be incurred for about two-thirds of the smaller employers who do not use outside accounting firms.

Second, both studies are silent about the statistical reliability of their findings. The studies do not state whether the stratified samples are representative of the universe of employers who fail to respond to SSA's two mailings nor do they state the degree of precision associated with their estimates. Thus, the difference in overall contact rates for large and small employers may not be statistically significant.

Finally, we believe the studies strongly demonstrate one point: telephone contacts can help to reconcile wage reports that could not be corrected through mail contacts. We also note that the amounts of money involved in these reports is large enough to affect workers' benefits.

Thus, based on our examination of the studies that were used to support the telephone contact tolerance coupled with the greater impact of not resolving these cases, we believe that further consideration of whether to lower the $500,000 tolerance relative to its resource implications is warranted.

Sincerely yours,

Joseph F. Delfico
Senior Associate Director

Chairman JACOBS. The next panel consists of Norman Goldstein, Chief Financial Officer, Social Security Administration, and Charles H. Brennan, Deputy Commissioner, U.S. Internal Revenue Service.

Mr. Goldstein.

STATEMENT OF NORMAN GOLDSTEIN, CHIEF FINANCIAL OFFICER, SOCIAL SECURITY ADMINISTRATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. GOLDSTEIN. Mr. Chairman, I am pleased to appear before you today to discuss the memorandum of understanding (MOU) on annual wage reporting which Commissioner Hardy and Internal Revenue Commissioner Gibbs signed on July 12. I believe that the new MOU establishes a firm foundation for SSA and IRS cooperation to improve the reconciliation of employer wage reports in a timely and efficient manner.

First, let me emphasize Commissioner Hardy's concern that the reconciliation process be improved. We fully recognize just how important it is that workers and their families get benefits which take account of all the workers' earnings which are covered under Social Security.

Even before the General Accounting Office issued its report, "Social Security: More Must Be Done to Credit Earnings to Individuals' Accounts," Commissioner Hardy had made reconciliation of SSA and IRS wage data one of her highest priorities. She initiated a number of management actions to address the reconciliation workload and to establish an efficient plan for working future cases.

As a result, SSA has made considerable progress in improving the reconciliation process. The MOU provides for changes in the joint SSA–IRS wage reporting process which will further improve wage reconciliation. We are confident that, taken together, the new MOU and other SSA initiatives will result in timely, accurate crediting of Social Ssecurity wages to individuals' records.

Before discussing the MOU, I would like to briefly explain how the wage differences occur and why the number of reconciliation cases increased since annual reporting began in 1978. For example, in 1977 the number of reconciliation cases was about 209,000; since then the number of cases has averaged 650,000 annually. However, to put the number of cases in context, I might point out that the dollar amount of the difference between SSA and IRS records is about one-half of 1 percent of all wages that SSA recorded during the period.

The quarterly wage reports employers filed with IRS prior to 1978 consisted of summary Social Security wage and tax information on forms 941 and individual wage information on forms 941A. Since employers generally completed these forms at the same time and on the basis of the same records, the total difference in wages was relatively small and IRS resolved most differences identified.

The system has been considerably different since 1978. Employers now use forms W–2 to report individual wage data to SSA on an annual basis after the tax year ends and forms 941 to file summary Social Security wage and tax information with IRS on a

quarterly basis. Since employers may prepare 941's and W-2's at different times and sometimes, we understand, on the basis of different records, it is more likely that wage differences will occur more frequently than before 1978.

In September 1987, GAO issued a report, "Social Security: More Must Be Done to Credit Earnings to Individuals' Accounts," which examined the issue of wage reconciliation and made a number of recommendations. I might mention here that we found the report to be very timely, since it was issued when we were making a priority effort to deal with the reconciliation process. We have found GAO's analysis and its recommendations to be most helpful.

GAO's major recommendations included: one, develop and pursue a strategy for examining the reconciliation workload; two, determine the major causes of difference between SSA and IRS records and take corrective action to prevent their occurrence or reduce their frequency; three, revise the SSA-IRS MOU to specify what will be reconciled and which agency will perform and complete reconciliation; four, assess the effect of reconciliation tolerances on individuals' eligibility and benefit amounts to determine their equity and reasonableness and revise the tolerances, if appropriate; and, five, require that the Chief Financial Officer of SSA serve as the focal point for addressing wage reconciliation.

I am happy to report that we have taken action on all of these recommendations. Commissioner Hardy assigned me, as Chief Financial Officer, the primary responsibility for developing a plan to address the annual wage reconciliation process. I will refer to the other specific activities we have undertaken that relate to the GAO recommendations as I discuss improvements in the reconciliation process.

Now let me turn to the actions we have taken to improve the reconciliation process. First, though, let me mention that SSA will need no additional resources to meet its responsibilities for wage reconciliation. Our resources have been sufficient for us to make considerable progress and will continue to be sufficient.

As recommended by GAO, the MOU has been revised to specify what will be reconciled and which agency will perform reconciliation. SSA will reconcile all differences involving higher amounts reported to IRS than to SSA which have occurred since 1978, when combined annual wage reporting began, and share this responsibility with IRS beginning with 1987. GAO identified approximately 3.5 million such differences for the period 1978 through 1983. We are on schedule for working these cases and anticipate that SSA processing of this workload will be completed by March 1989. We anticipate that the cases for 1984 through 1986 will be completed by October 1990, as will SSA's portion of the 1987 cases.

The MOU provides for IRS and SSA to share responsibility for resolving wage differences attributable to 1987 and later years. SSA will compare reports of wages submitted by employers to IRS and to SSA in order to identify employers who have reported less in wages to SSA or made no report to SSA. SSA will write these employers, asking them to file wage reports with SSA, and SSA will then process the reports we receive. SSA will mail a followup letter if we do not receive a response and will telephone employers with large differences. We found that it is not cost effective to tele-

phone employers with small differences, because we were less successful in contacting them and they were less likely to retain their records. If we do not receive a reply to our two requests or we are unable to resolve the difference based on the information we receive, we will refer the case to IRS to contact the employer and resolve the difference. IRS will notify SSA of the results.

In cases where SSA has a report of FICA wages from an employer and IRS has no record of a report or a report of a smaller amount of wages, IRS will be responsible for reconciling the difference. IRS has taken responsibility for this type of difference since annual wage reporting began in 1978, since these cases basically involve tax collection activities.

Implementation of the new wage reconciliation process, as well as other SSA activities, will result in more accurate and timely resolution of differences, which will better serve the public, as well as provide for a more efficient reconciliation process. Let me mention some of the major improvements we can expect.

First, reconciliation will be performed promptly. IRS will provide us with reconciliation data 1 year earlier than in the past. For example, data for 1987 will be provided to SSA by March 1, 1989. SSA will complete its action and notify IRS by November 1 of unresolved differences for IRS' action. This should give ample time for IRS to contact employers within the 4-year period for which they are required to retain records, which will help to assure that wages will be correctly reported to SSA for crediting to workers' records.

Second, workers will not lose eligibility for benefits due to the use of tolerances to exclude differences from resolution. Based on a GAO recommendation, SSA conducted a study of the $1,785 tolerance we had been using in cases where both IRS and SSA had an aggregate record of wages reported by the employer but the amount on SSA records was less than that on IRS records. This study found that applying this tolerance could result in some beneficiaries receiving somewhat lower benefits than they might otherwise receive. We have therefore decided to stop using $1,785 as a tolerance and instead use the amount of one Social Security credit, $470 in 1988, in all cases. This tolerance will assure that most differences which could affect a worker's eligibility for benefits will be examined. This tolerance will be applied to all cases which have occurred since annual wage reporting began in 1978. In order to do this, we will be reworking cases for 1978 through 1983 which were excluded because the $1,785 tolerance was initially applied, and we will also apply the new tolerance as we work the cases for 1984 and later years.

One of our major efforts with respect to wage reconciliation has been to reduce the number of earnings reconciliation cases. I would like to discuss some of the initiatives which should have this effect.

First, we are developing an improved cross-reference for employer identification numbers. One common cause of differences—which we identified under studies we conducted at GAO's recommendation—is the use by employers of one employer identification number to report to IRS and a different one to report to SSA. Under the MOU, IRS will provide SSA with a cross-reference file on employer identification numbers, so wage differences due to the use of different numbers can be more easily resolved. Since about

10 percent of wage differences are due to the use of different employer identification numbers, this cross-reference file should reduce the number of wage differences significantly.

Second, we are trying to improve employer reporting by improving the information sent to employers. To accomplish this, SSA will have an opportunity to review IRS forms, instructions and publications 30 days before publication. This will enable SSA to identify items of concern based on Social Security experience and perspective. As an aspect of clarifying instructions, we have already recommended one change to IRS: requiring employers to state on the summary form on which they report wages to SSA that the amount of wages agrees with the amount they reported to IRS. We hope this will call to the attention of employers that the two figures should agree, thus leading employers to correct errors and avoid earnings differences.

Third, under the MOU, IRS will assess penalties authorized under the Internal Revenue Code against nonfiling employers who have not responded to SSA inquiries and who do not respond to IRS requests for information and against late filers and incorrect filers. This should act as an incentive for employers to improve compliance.

Fourth, we are also trying to improve employer reports by making employers more aware of reporting requirements. In fiscal year 1987, IRS and SSA held 149 joint seminars, both for employers who file paper reports and contractors who prepare magnetic media reports for employers, and additional seminars are in progress. Also, SSA-provided material was included with information recently issued by the Small Business Administration for small business owners.

The MOU also includes a number of requirements that SSA and IRS consult on a regular basis in order to assure good communication and provide that problems are resolved on an ongoing basis.

These include: one, requiring a jointly prepared annual report to both Commissioners which will evaluate the current year's activities and make recommendations for future improvements; two, establishing an ongoing interagency work group which will meet periodically during the year to evaluate the effectiveness of the reconciliation process and the forms being used; three, requiring each agency to fund its share of the costs incurred under the agreement or to request supplemental appropriations, if necessary; and, four, providing that the Commissioner of either agency, if it is unable to fulfill its responsibilities under the agreement, will propose, in writing, program changes or other recommendations to the other Commissioner.

All in all, I think that the MOU and the numerous activities related to it provide an excellent basis for improving the annual wage reporting process and will facilitate the timely, accurate crediting of wages to workers' records.

I would now like to move from discussing what SSA and IRS are doing to assure that workers are credited with all their earnings, and discuss what workers themselves can do. Commissioner Hardy announced on August 4 another major effort which will enable workers to verify Social Security's record of their earnings. This is

the new personal earnings and benefit estimate statement which SSA now issues to people who request it.

The earnings statement we previously furnished upon request had a primary objective of furnishing information about the earnings recorded on a worker's record in each of the most recent three years. The new statement has a much broader objective; it contains a year-by-year display of earnings since 1951, which allows a worker to make sure that his earnings record is correct so that his future benefits will be based on all his covered earnings. The new statement also provides workers with comprehensive benefit estimates and will help people do their own financial planning.

We estimate that 6 million people each year will ask for the new statement, which is double the number who asked for the old version. We hope that workers will avail themselves of this new service—and it is being publicized extensively—so that we can ensure that their earnings records are correct.

In conclusion, the steps we have taken with regard to wage reconciliation and the new personal earnings and benefit estimate statement should improve public confidence that the Social Security benefits they receive will reflect all of their covered earnings.

Under the MOU we have concluded with IRS, we are confident that the 1978 through 1983 cases will be done by March 1989 and we will be current through tax year 1986 by 1990; future reconciliation workloads will be lower because of the numerous improvements we are making; high priority is being given to reducing the number of differences in the future; and discrepancies in the Social Security earnings records of American workers will be corrected in an accurate and timely manner.

Chairman JACOBS. Thank you.

Mr. Brennan.

STATEMENT OF CHARLES H. BRENNAN, DEPUTY COMMISSIONER (OPERATIONS), INTERNAL REVENUE SERVICE, U.S. DEPARTMENT OF THE TREASURY

Mr. BRENNAN. Thank you. I am Charles Brennan, Deputy IRS Commissioner for Operations. I am here on behalf of Commissioner Gibbs to discuss the recently signed agreement between IRS and the Social Security Administration [SSA] relating to combined annual wage reporting [CAWR]. In my testimony, I will review some of the highlights of the July 12 memorandum of understanding and describe how the IRS plans to implement it. I will also address the penalty issue raised in your July 26 letter to the Commissioner.

Formal responses to all the issues raised in your July 26 letter were provided in my recent reply to you.

Before beginning my testimony, I would like to introduce myself to the subcommittees. I am the Deputy Commissioner (Operations) at the IRS national office. My position involves overseeing IRS' seven regional Commissioners and six Assistant Commissioners, including the Assistant Commissioner [Taxpayer Service and Returns Processing), whose program responsibilities include the combined annual wage reporting system which is the focus of this hearing.

I can assure you that I take the implementation of this new agreement seriously, and will make it a high priority for the service.

BACKGROUND

Public Law 94-202, enacted on January 2, 1976, contained provisions establishing the combined annual wage reporting system. The congressionally stated purpose of the legislation was to ease the burden on employers of reporting employee wage data to the Federal Government. It did so by requiring them to file one annual listing of employees and their earnings instead of the five previously required. This list was to be filed with the Social Security Administration, which would transcribe the necessary data for its purposes and then supply the same data to IRS for tax administration purposes. Additional forms used previously for the purpose were obsoleted.

On the whole, the main purpose of the legislation has been achieved. The paperwork and reporting burden on employers has been reduced and the agencies are receiving information needed to administer both Social Security benefits and tax compliance programs.

THE ORIGINAL IRS-SSA COOPERATION AGREEMENT

To implement the provisions of Public Law 94-202, IRS and SSA entered into a cooperative agreement in 1978. That agreement was modified over time to reflect operational and financial realities impacting both agencies, and was replaced by the new agreement signed by the IRS and SSA Commissioners on July 12, 1988. The one aspect of the original agreement that did not work as well as it should was the proper crediting of employees' earnings to individual accounts. This issue was the subject of both a GAO report and an earlier hearing in the fall of 1987.

A brief review of how CAWR operates may be helpful in understanding the need for a written agreement between the two agencies. The chart attached to my testimony, which is excerpted from GAO's 1987 report, shows the process graphically. Under the combined annual wage reporting system, employers report employees' earnings to SSA on Forms W-2. SSA is responsible for balancing the amounts reported for individuals on form W-2 with the total amounts claimed to have been paid in wages, FICA or withheld taxes by the employer on the summary transmittal W-3. The actual payment of these taxes by employers is made and reported to IRS quarterly on forms 941.

Once SSA balances the information on forms W-2 with the transmittal form W-3, the information is provided to IRS on magnetic tape. IRS uses this information to reconcile amounts reported as paid or withheld on forms W-2 with amounts actually paid with the forms 941. The original agreement stipulated that IRS was to work unreconciled cases by contacting employers as necessary.

The number of cases worked by IRS each year has fluctuated depending upon resources available. For tax administration purposes, IRS has been more concerned with reconciling those cases where employers reported to SSA that they paid more in taxes than they

had actually paid to IRS. IRS has also provided information to SSA on several hundred thousand cases a year where employers have paid more in taxes than the total amounts reported to SSA on forms W–2. These are the cases which we understand SSA is now working to resolve with the goal of eliminating the 1978–83 backlog by March of 1989.

NEW COOPERATIVE AGREEMENT

As I noted earlier, Commissioner Gibbs of IRS and Commissioner Hardy of SSA signed a new cooperative agreement on July 12, 1988. That agreement was the result of several months of detailed discussions between agency staffs and considerable top-level involvement by both IRS and SSA.

Under the terms of the new agreement, IRS will perform the following major functions:

One, beginning with tax year 1987, IRS will reconcile discrepancies between employer W–2/W–3 wage reports provided SSA and tax returns provided IRS on form 941, and provide SSA with sufficient information to permit any necessary corrections of SSA records. This reconciliation activity will include employer contacts when IRS is unable to resolve discrepancies based upon its own records. For non-tax-related cases, IRS reconciliation efforts will be subsequent to SSA initiating prior contact with these employers—where nonfiling employers fail to respond to SSA and IRS contacts, appropriate penalties will be assessed by IRS—see item 2—beyond correspondence, IRS will negotiate with SSA on a case-by-case basis other types of contacts that may be needed.

Two, IRS will assess penalties under the Internal Revenue Code on certain employers identified by SSA, and explore a penalty structure which segments penalties into late, discrepant and nonfiling situations.

Three, IRS will provide SSA with the necessary data to allow SSA to implement its portions of CAWR.

Four, IRS will provide SSA with pertinent IRS audit results and results of other investigations that require adjustments or corrections to prior wage reports of self-employment income tax returns. These results should be in magnetic format.

Five, IRS will allow SSA at least 30 days—if practical—to review proposed IRS reporting forms, instructions and appropriate portions of publication revisions relating to wage, tip, or self-employment income. IRS will provide SSA with a tentative schedule for revising these and any future forms and publications, and will keep SSA advised as to modifications to the schedule on an ongoing basis. Any IRS forms or publications that impact directly on SSA workloads or program responsibilities will not be issued without SSA concurrence.

Six, IRS will provide SSA a copy of the entity data from the individual master file [IMF] on an annual basis, along with the last known address of taxpayers whose earnings are to be adjusted or investigated further by SSA following an IRS initiated audit or examination. Upon request by SSA, IRS will provide copies of self-employment schedules, unreported tip returns, and employer wage/tip returns.

Seven, IRS will provide SSA via magnetic media schedule SE data from individual taxpayer self-employment income tax returns, including any necessary adjustments or corrections to previously reported self-employment income weekly.

Eight, IRS will promptly transfer to SSA any W-2/W-3 or W-2C/W-3C wage reports received in IRS offices in error—for example, misroutes—or in response to IRS reconciliation activities.

Nine, IRS will provide weekly updates on cases which IRS has resolved from the reconciliation items previously provided SSA.

Ten, IRS will provide a cross reference tape to SSA indicating any employer identification number changes on a weekly basis.

In conjunction with SSA, we will also perform the following joint functions:

One, IRS will designate representatives to meet no later than October 1 of each year to review the method and effectiveness of data exchanges between the two agencies during the preceding 9-month period, and review this agreement for any changes that will improve the processing and/or reconciliation of employer reports. The representatives will submit to both Commissioners a joint report providing their evaluation of the current year's CAWR activities guided by this agreement, as well as recommendations for improvements for future years.

Two, IRS will designate representatives who will form an ongoing interagency work group to evaluate the effectiveness of the reconciliation process and the forms used in this process. This work group will meet on a periodic basis during the reconciliation processing period for the particular tax year reports involved.

Three, IRS will continue to pursue improvements in the reconciliation process and to ensure that systems validations and other measures have been undertaken to ensure CAWR data are valid and correct.

Four, IRS will assist the annual review of this agreement by conducting joint and independent studies of the CAWR process and assist each other in such studies, as appropriate, by providing data at no charge.

Five, IRS will promote better employer reporting practices by participating in joint educational workshops and magnetic media seminars for business employers. Each IRS regional office will confer with its parallel SSA regional office to plan for participation in a minimum of four joint workshops during each fiscal year, beginning with fiscal year 1988. In addition, the IRS national office and the Social Security Administration central office will provide each other an opportunity to review and comment on draft materials proposed for use at such workshops.

I should add that all the provisions of the new agreement are covered by the disclosure provisions of Section 6103 of the Internal Revenue Code, entitled "Confidentiality and Disclosure of Returns and Return Information". SSA will provide the safeguards prescribed under 6103(p)(4) for all Federal tax returns and tax return information received from taxpayers and IRS. SSA employees and contractors employed by SSA are subject to the penalty provisions of 26 U.S.C. 7213 and 7431 regarding unauthorized disclosures.

IMPLEMENTING NEW AGREEMENT

To implement this new agreement, IRS has drafted an action plan which designates the organizational components responsible for accomplishing certain actions. Specific completion dates have been listed for each action, and progress in completing the actions timely will be closely monitored.

We have scheduled a meeting with representatives of SSA for later this month to discuss our action plan and any similar efforts being taken by SSA.

PENALTY ISSUE

Your July 26 letter to the Commissioner asked if the existing penalty structure was sufficient for the tasks IRS will be performing under the new agreement. There are several penalties which can be asserted against employers for failing to file W-2 or for providing incorrect information on forms W-2. There is another, more serious penalty for intentional failure to file. Because IRS is now reviewing all civil tax penalties, however, it is not possible to give a definitive answer to this question at this time.

IRS began its study of civil tax penalties last fall. Other interested parties in the tax administration community are also conducting penalty studies. Overall, the goals of the IRS study are to enunciate an underlying philosophy of penalties, to establish criteria for their use, and then to compare these with the existing system to see where changes may be needed. All penalties in the Internal Revenue Code—some 150—are being reviewed and evaluated against the criteria of fairness, simplicity, administrability, and effectiveness. We expect the IRS study to be completed by the end of 1988, at which time we should be in a better position to evaluate current penalties.

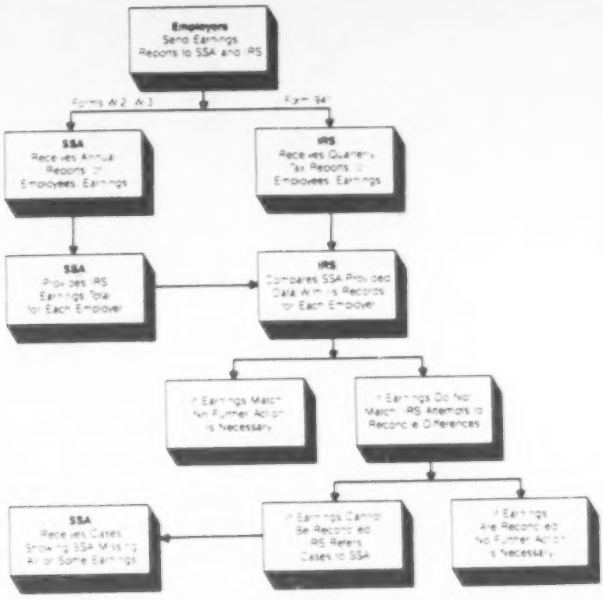
Commissioner Gibbs has testified on the penalty issue this year before you, Mr. Pickle, and I know he very much appreciates the initiative and thoroughness you and your staff have shown in reviewing this complex issue.

We are pleased to have reached a final agreement with SSA on the CAWR issue, and we look forward to continuing our productive working relationship with SSA on this program. We will also insure that CAWR receives the highest possible attention at the IRS.

I will be pleased to try and answer any questions you or the other members may have.

[An attachment to the statement follows:]

Figure 1.1: Reporting and Reconciliation of Employers' Earnings Reports



Chairman JACOBS. Thank you, Mr. Brennan.

Mr. Pickle.

Chairman PICKLE. Mr. Brennan, you just said "IRS would assess penalties under the Internal Revenue Code on certain employers identified by SSA, and explore a penalty structure which segments penalties into late, discrepant and nonfiling situations."

What do you mean by "explore"? Do you have a penalty, do you know how much it will be?

Mr. BRENNAN. Yes, sir, there are existing penalties.

Chairman PICKLE. Is that the penalties you will apply?

Mr. BRENNAN. Yes, sir there it is a $50 penalty for failing to timely file an information return.

Chairman PICKLE. What do you mean by "explore" a penalty structure?

Mr. BRENNAN. There we are referring to whether we need further penalties. As you are aware, we are making a study of the entire penalty area. That is what we are talking about.

Chairman PICKLE. Let me ask you some questions about your figures. You said in your letter to Mr. Jacobs and to me that you were all going to look into these cases that would be resolved. You thought there were 175,000. I assume that is a general goal, that you are going to look at all the cases whether 200,000 or 500,000 cases?

Mr. BRENNAN. We would expect to resolve all the cases that are necessary to live up to this agreement.

Chairman PICKLE. You are not locked into the 175,000, whatever cases are out there?

Mr. BRENNAN. We are trying to engage in joint educational efforts with SSA and some of the other things Mr. Goldstein mentioned in terms of cross referencing these numbers. We believe the present volume, 400,000 or 500,000, will be substantially reduced.

Chairman PICKLE. I understand that the 175,000 was an estimate. That was just an estimate. You were going to get them all if you could, whatever figures there were.

Mr. BRENNAN. Yes, sir.

Chairman PICKLE. In your letter to us, to Mr. Jacobs, also, you indicate the administration would not act on the 1990 budget until January 1990. Has the Department of Treasury agreed to support that sum?

Mr. BRENNAN. The budget discussions are still going on with Treasury at the present time. We have not finalized the fiscal year 1990 budget.

Chairman PICKLE. If you don't know, you don't know yet whether the administration is going to approve that figure?

Mr. BRENNAN. No. I do not.

Chairman PICKLE. If the administration doesn't recommend it, are you going to appeal it?

Mr. BRENNAN. I would anticipate that we would appeal a number of items if they are rejected.

Chairman PICKLE. In your letter to us, you said that the budget summit agreement which had been set a year ago would probably foreclose you from getting supplemental funding for 1989.

Does this mean that the Treasury or OMB has refused to include the IRS request in their supplemental budget submission to the Congress?

Mr. BRENNAN. No, sir; that has yet to be decided.

Chairman PICKLE. Are you guessing what the Congress' reaction is going to be, or hoping?

Mr. BRENNAN. I am hoping to get all the funds.

Chairman PICKLE. It is not clear whether you are going to put that in the budget supplemental or use the budget summit as a means of not requesting it. Only $7.5 million, something like that.

Mr. BRENNAN. We have requested the money, sir.

Chairman PICKLE. You have requested it, or will?

Mr. BRENNAN. We already have, sir.

Chairman PICKLE. But the administration has to agree to that.

Mr. BRENNAN. It hasn't been acted on.

Chairman PICKLE. All right.

All I am trying to nail down, would you ask for that money?

You said you would?

Mr. BRENNAN. Yes, sir.

Chairman PICKLE. Whether Treasury approves it, you don't know that?

Mr. BRENNAN. It hasn't been acted on.

Chairman PICKLE. In your testimony, this memorandum of understanding you mentioned to us, the IRS is called upon to assess the penalty under the Internal Revenue Code on certain employees identified by SSA.

Is it the same thing I asked you about previously, that you say you will see that is followed through on?

Mr. BRENNAN. Yes, sir.

Chairman PICKLE. Can you tell me how long that exploration will take?

Mr. BRENNAN. As I mentioned in my opening statement, we expect to complete our study by the end of 1988.

We will be getting back cases in about November of 1989. We will be fully prepared.

Chairman PICKLE. What is going to happen to uncooperative employers in the meantime?

Mr. BRENNAN. Those are the years that Social Security is working on right now, 1986 and prior.

Chairman PICKLE. Will you apply penalties against them?

Mr. BRENNAN. Those particular cases will probably not be referred to us under the agreement.

Chairman PICKLE. How long are employers required to keep their wage records?

Mr. BRENNAN. Four years.

Chairman PICKLE. I wanted to get that as a matter of record.

Would the Internal Revenue Service apply penalties to employers who refuse to cooperate even though they are still required to maintain those records?

Mr. BRENNAN. Yes, sir, we are prepared to apply the appropriate penalties where the law is not being complied with.

Chairman PICKLE. I guess my other broad question is to you or SSA. You got the money to pay for these things, but all you are

going to do is write a letter. That is not going to cost you a whole lot, although there will be some postage to it.

I assume you will write the employers that you have some reason to, where you are suspicious there might be some reason to reconcile their records.

You are not going to write to every employer in the United States, I presume?

Mr. GOLDSTEIN. Every employer that we can identify for which there is a problem, we will write.

Chairman PICKLE. You are not going to write on a blanket basis to everybody?

Mr. GOLDSTEIN. No.

Chairman PICKLE. You have got some reason to it?

Mr. GOLDSTEIN. Yes.

Chairman PICKLE. You are going to hope that they respond to you?

And if they don't respond to you, then you are going to turn to the IRS and say, "Use the telephone for those employers whose wage records are in excess of $500,000." It seems to me that is a big gap, a big sum, and big uncertainty in there.

All you are going to do at SSA is write a letter. Here 10 years of wages is backed up that haven't been filed. And you are going to take the magnanimous action of writing them a letter.

I don't know what the right procedure is, but my sense of fairness is that that is not enough, and that we ought to go after these employers, and you ought to pay for it out of your money, and the Internal Revenue Service ought to cooperate somehow, and to apply the penalties.

You ought to apply the penalties now and not wait for 4 or 5 years down the road. I know your intent is good, but the fault has been the Government's.

The fault has been SSA and IRS's fault in not getting these wage records. No matter how you splice it, no matter whether or not Congress has been negligent in overseeing it, the fact of the matter is we have not done it.

The fault is not with the employees, it is with us.

I think something beyond writing employers a letter ought to be done, and, even if you will apply penalties to those people from 1984 on, what happens to all those people from 1978 to 1984?

I commend you on the report for saying something ought to be done. Obviously it should, because a man who has been working all his life, he has had a deduction made, he has got a reason to expect that money is there for him, and now it is not there for him. It is no matter whether the employer paid taxes or not, the worker is entitled to it. That is the law.

I don't know what else we can expect, but I don't think we are doing enough. We ought to make specific efforts to find those people even if you have to go back through your computer system and punch those buttons and make those machines crank out those employers who didn't produce those records.

I think it ought to be done. It seems to me like there ought to be more that can be done.

Thank you, Mr. Chairman.

Chairman JACOBS. Why in the case of your retrospective action, where at least there is some color of suspicion, of lack of cooperation on the part of employers, do you not plan to use any enforcement to obtain the information for the reconciliation, while at the same time believing you need the enforcement authority prospectively for all employers, I would say most whom are presumed to be good citizens and will cooperate.

Why do you need enforcement procedures with those presumed to be good guys and not with those who may not be quite so good or efficient?

Mr. GOLDSTEIN. I think you have a number of issues. Possibly Mr. Brennan can address them more specifically than I.

From our perspective those are often times old cases, and you have due process issues associated with the application of penalties and providing them notice as well as control issues to establish, in fact, whether there were problems in terms of late filing or whatever. So from that point of view the two agencies haven't been in the best——

Chairman JACOBS. I understand. How about the retrospective cases where the statute has not run?

Mr. GOLDSTEIN. Again, I believe there are due process procedures in terms of notice and how you advise employers about the possibility of penalties. We are going through a process now of trying to get ourselves in a situation so we can, in fact, provide notice to employers so they will be aware of the application of penalties or the potential application of penalties so that when they are applied, they will have been given proper notice.

Mr. BRENNAN. By the time that all this is completed on the old years, 1978 through 1986, the 4-year record retention period will have run or almost run.

We also have the problem, with the old years, of a number of businesses not responding because they are gone. The records are gone.

Chairman JACOBS. I appreciate that. Which raises the question as to why you would take the ones on which the statute has run first rather than catch the ones that are still under the statute first.

Mr. BRENNAN. I think what we and SSA are trying to do is clean up the backlog.

Chairman JACOBS. Why not get something done rather than writing two letters, making a call and writing it all off. Why wouldn't you start with the ones where you under law do have the possibility of penalty? Have I missed something there?

Mr. GOLDSTEIN. I guess there are two sides to that coin. Had we done the more recent cases sooner as opposed to later, the prospect of more employers running the time frame in terms of the 4-year-record retention, the prospect of available records being there by which to make corrections would have been greater.

We found with the more recent years we did have a greater likelihood of being able to get employers to provide the necessary information and corrections. However, we didn't want the older cases to get any older and make that situation any more difficult than it already was.

Chairman JACOBS. Once they are already old enough not to enforce, I just wonder—I mean it seems to me you are letting the

more recent ones get old enough, by the time you get to them you are in the same box again.

Mr. GOLDSTEIN. You have to understand that there wasn't a specific agreement to actually apply penalties in those situations. The application of the penalty and the agreement by IRS to actually impose penalties features of the new agreement.

Chairman JACOBS. Is the law itself sufficient notice so that if you don't comply with it, you might be penalized?

Mr. BRENNAN. As I understand it, there is a legal point that employers could legitimately raise that they weren't notified of the penalty by the IRS.

Chairman JACOBS. That is a legal point even though the law clearly stated it in the first instance?

Mr. BRENNAN. That is be a legal point that can be raised by employers.

Chairman JACOBS. Would it be successful?

Mr. BRENNAN. I am not a judge.

Chairman JACOBS. Because of the contingencies of the floor action, I think we will have to conclude the questioning.

I wonder if we can ask for the record if the two agencies would respond to written questions by the staff?

[The following are questions submitted to the administration and their responses:]

ONE HUNDREDTH CONGRESS
DAN ROSTENKOWSKI, ILLINOIS, CHAIRMAN
SAM M. GIBBONS, FLORIDA
J.J. PICKLE, TEXAS
CHARLES B. RANGEL, NEW YORK
PORTNEY H. (PETE) STARK, CALIFORNIA
ANDY JACOBS, JR., INDIANA
HAROLD FORD, TENNESSEE
ED JENKINS, GEORGIA
RICHARD A. GEPHARDT, MISSOURI
THOMAS J. DOWNEY, NEW YORK
FRANK J. GUARINI, NEW JERSEY
MARTY RUSSO, ILLINOIS
DON J. PEASE, OHIO
ROBERT T. MATSUI, CALIFORNIA
BERYL ANTHONY, JR., ARKANSAS
BONNIE G. FLIPPO, ALABAMA
BYRON L. DORGAN, NORTH DAKOTA
BARBARA B. KENNELLY, CONNECTICUT
BRIAN J. DONNELLY, MASSACHUSETTS
WILLIAM J. COYNE, PENNSYLVANIA
MICHAEL A. ANDREWS, TEXAS
SANDER M. LEVIN, MICHIGAN
JIM MOODY, WISCONSIN
JOHN J. DUNCAN, TENNESSEE
BILL ARCHER, TEXAS
GUY VANDER JAGT, MICHIGAN
PHILIP M. CRANE, ILLINOIS
BILL FRENZEL, MINNESOTA
DICK SCHULZE, PENNSYLVANIA
BILL GRADISON, OHIO
WILLIAM M. THOMAS, CALIFORNIA
RAYMOND J. McGRATH, NEW YORK
HAL DAUB, NEBRASKA
JUDD GREGG, NEW HAMPSHIRE
HANK BROWN, COLORADO
ROD CHANDLER, WASHINGTON
ROBERT J. LEONARD, CHIEF COUNSEL
M. KENNETH BOWLER, STAFF DIRECTOR
A.L. SINGLETON, MINORITY CHIEF OF STAFF

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

August 18, 1988

Mr. Charles H. Brennan
Deputy Commissioner of Operations
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Dear Mr. Brennan:

Thank you for your recent testimony before the Subcommittees on Social Security and Oversight of the Committee on Ways and Means on the crediting of earnings to social security accounts. You will recall that at the conclusion of your testimony, we indicated that we might ask you for additional information for the hearing record. We are writing now to request that you respond to the following questions:

1. In your testimony, you explained that your estimate of the resources needed to implement the SSA-IRS accord was based on the assumption that SSA will refer 175,000 cases to IRS each year. If the number of referrals exceeds 175,000, is the IRS committed to processing these cases under the agreement? If so, how do you plan to obtain the needed resources?

2. One provision of the accord calls for IRS to furnish SSA with reconciliation data by March 1 of the second year after the year being reconciled. What actions has IRS taken or planned to enable it to implement this provision?

3. Please describe the steps that IRS will take with respect to the reconciliation cases referred to it by SSA. Specifically will IRS assess penalties against some employers? If so, describe the criteria and the process that will be used. In addition, please specify the amounts that could be assessed and the conditions, if any, under which penalties might be cancelled for good cause.

4. What is your position on imposing penalties on employers who do not respond to SSA attempts to contact them to resolve reconciliation cases for years before 1987?

5. When does IRS expect to implement the requirement that employers state on the summary wage report filed with SSA

whether the amount of wages being reported agrees with the total wage amounts reported on the quarterly wage report forms filed with IRS? Can this requirement be implemented for tax year 1989?

In addition, Representative Daub, ranking minority member of the Subcommittee on Social Security, has asked that you respond to the following questions:

1. Your statement covered the current memorandum of understanding, but made no mention of the backlog of 1979 self-employment cases reported by GAO. What is the current status of those cases, and why hasn't that workload been completed? I assume there was no question of jurisdiction?

2. What measures do you plan to take to assure that the "case-by-case" negotiation with SSA regarding employer contacts will be handled expeditiously?

3. With regard to employers -- especially those few who have a history of discrepant reporting -- is the IRS taking any steps to assure that wage records are retained more than the four years now required?

4. In view of the backlogged cases, should that retention period be extended?

Thank you for responding to these questions. So that your answers can be included in the hearing record, please respond to the Subcommittee on Social Security no later than close of business on Friday, September 16th.

Sincerely,

J.J. Pickle, Chairman
Subcommittee on Oversight

Andy Jacobs, Chairman
Subcommittee on Social Security

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

SEP 22 1988

The Honorable Andy Jacobs
Chairman, Subcommittee on Social Security
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

SEP 16

Dear Mr. Chairman:

I appreciate the opportunity to respond to your request for additional information for the hearing record. I hope that my testimony of August 9, 1988, concerning the interagency agreement between IRS and the Social Security Administration (SSA) relating to Combined Annual Wage Reporing (CAWR), was helpful. The questions contained in your letter of August 18, 1988, reflect many valid concerns about this important program.

Specific answers to your questions follow:

1. Question: In your testimony, you explained that your estimate of the resources needed to implement the SSA-IRS accord was based on the assumption that SSA will refer 175,000 cases to IRS each year. If the number of referrals exceed 175,000, is the IRS committed to processing these cases under the agreement? If so, how do you plan to obtain the needed resources?

   Response: The agreement does not specifically cite or limit the number of cases SSA can refer to IRS for necessary follow-up. For planning purposes, we have assumed that 175,000 cases will be worked. If the case load exceeds this level, IRS will have two choices, either resolve the additional cases by augmenting resources or limit workload to existing funds. IRS would first attempt to secure additional resources through supplemental funding or reallocation away from less essential programs.

   The agreement does stipulate, under Article VII, Funding, that if either agency, IRS or SSA, is unable to secure funds or fulfill responsibilities under the agreement, program adjustments must be proposed and approved by the heads of both agencies.

2. Question: One provision of the accord calls for IRS to furnish SSA with reconciliation data by March 1 of the second year after the year being reconciled. What actions has IRS taken or planned to enable it to implement this provision?

Response: We have met with SSA's staff to determine the exact information they need. Our Computer Services people have been working with their counterparts at SSA to make sure that this transfer of information goes smoothly. At this point, we are working to finalize certain technical issues, such as specific tape formats. We expect to have these formats finalized within the next two weeks and anticipate no problems in meeting the March 1 date.

3. Question: Please describe the steps that IRS will take with respect to the reconciliation cases referred to it by SSA. Specifically, will IRS assess penalties against some employers? If so, describe the criteria and the process that will be used. In addition, please specify the amounts that could be assessed and the conditions, if any, under which penalties might be cancelled for good cause.

Response: IRS will penalize employers referred by SSA for missing wage reports beginning with Tax Year 1987. IRS' assessment of penalties will follow two previous notifications and attempts by SSA to secure the wage data before asserting the penalty. IRS will send one additional notification to request wage data before asserting the penalty. Under Internal Revenue Code (IRC) Section 6721, a penalty of $50 (up to a maximum of $100,000) is available per non-filed Form W-2 per calendar year. IRC Section 6721 also includes a provision for an intentional disregard penalty of $100 per Form W-2. The Service may be able to assess the higher penalty in some instances. The "reasonable cause" criteria (that has been established for abatement of most other information return penalties) will also apply to Form W-2 penalties.

We have no plans at this time to automatically assess the penalty for discrepant wage reports - i.e., Forms W-2 were filed, but the SSA FICA wage totals are different from those reported on the IRS employer's quarterly tax return. We are presently reviewing this penalty as part of our study of civil tax penalties in the Internal Revenal Code.

4. Question: What is your position on imposing penalties on employers who do not respond to SSA attempts to contact them to resolve reconciliation cases for years before 1987?

   Response: At this time, we do not plan to systemically assess penalties for tax years before 1987. However, we are willing to work with SSA on a case-by-case basis concerning penalties on these cases.

5. Question: When does IRS expect to implement the requirement that employers state on the summary wage report filed with SSA, whether the amount of wages being reported agrees with the total wage amounts reported on the quarterly wage report forms filed with IRS? Can this requirement be implemented for Tax Year 1989?

   Response: The IRS is supporting the addition of a new line item to Form W-3 to reconcile FICA Wage and Tip totals with the employer's quarterly tax returns. The package for the proposed revision will be forwarded to OMB for approval in October 1988. With OMB's concurrence, this requirement can be made effective for Tax Year 1989.

Specific answers to the questions submitted by Representative Daub follow:

1. Question: Your statement covered the current Memorandum of Understanding, but made no mention of the backlog of 1979 self-employment cases reported by GAO. What is the current status of those cases, and why hasn't that workload been completed? I assume there was no question of jurisdiction?

   Response: IRS and SSA coordination has resulted in an agreement calling for IRS to provide SSA with the necessary Tax Year 1979 self-employment data on tape by September 1988. Test tapes were sent to SSA in August; they are currently processing this data and will notify IRS when they are satisfied with the test results. It is our understanding that SSA will then need several months to properly update the affected earnings records.

2. Question: What measures do you plan to take to assure that the "case-by-case" negotiation with SSA regarding employer contacts will be handled expeditiously?

   Response: We have already met with SSA's staff to identify situations in which other types of contacts may be needed. While a number of specific issues remain to be resolved, this is a high priority issue for the Service. As part of the pressing need to resolve these cases and provide SSA with the reconciled wage data, we will be working very closely with SSA to develop workable procedures for what we expect to be a wide variety of types of cases.

3. Question: With regard to employers -- especially those few who have a history of discrepant reporting -- is the IRS taking any steps to assure that wage records are retained more than the four years now required?

   Response: At this point, IRS is not taking any steps to assure that wage records are retained for more than the four years required. The Service, however, is taking steps to identify employers who have a history of discrepant reporting and work those cases more effectively. We believe that with the implementation of the new interagency accord, the conditions that contributed to potential non-compliance with SSA inquiries are no longer present (i.e., SSA will receive its cases from IRS a full year sooner - well within the four year records retention period required by IRS).

4. Question: In view of the backlogged cases, should that retention period be extended?

   Response: We have no plans to ask that the retention period be extended. We are optimistic that the backlog of cases can be eliminated with existing requirements and procedures.

If you or your staff have any further questions, please let me know. Again, I cannot emphasize too strongly the high priority that the Service has placed on the CAWR program.

Sincerely,

Charles H. Brennan
Deputy Commissioner (Operations)

ONE HUNDREDTH CONGRESS
DAN ROSTENKOWSKI, ILLINOIS, CHAIRMAN
SAM M. GIBBONS, FLORIDA
J.J. PICKLE, TEXAS
CHARLES B. RANGEL, NEW YORK
FORTNEY H. (PETE) STARK, CALIFORNIA
ANDY JACOBS, JR., INDIANA
HAROLD FORD, TENNESSEE
ED JENKINS, GEORGIA
RICHARD A. GEPHARDT, MISSOURI
THOMAS J. DOWNEY, NEW YORK
FRANK J. GUARINI, NEW JERSEY
MARTY RUSSO, ILLINOIS
DON J. PEASE, OHIO
ROBERT T. MATSUI, CALIFORNIA
BERYL ANTHONY, JR., ARKANSAS
RONNIE G. FLIPPO, ALABAMA
BYRON L. DORGAN, NORTH DAKOTA
BARBARA B. KENNELLY, CONNECTICUT
BRIAN J. DONNELLY, MASSACHUSETTS
WILLIAM J. COYNE, PENNSYLVANIA
MICHAEL A. ANDREWS, TEXAS
SANDER M. LEVIN, MICHIGAN
JIM MOODY, WISCONSIN
JOHN J. DUNCAN, TENNESSEE
BILL ARCHER, TEXAS
GUY VANDER JAGT, MICHIGAN
PHILIP M. CRANE, ILLINOIS
BILL FRENZEL, MINNESOTA
DICK SCHULZE, PENNSYLVANIA
BILL GRADISON, OHIO
WILLIAM M. THOMAS, CALIFORNIA
RAYMOND J. MCGRATH, NEW YORK
HAL DAUB, NEBRASKA
JUDD GREGG, NEW HAMPSHIRE
HANK BROWN, COLORADO
ROD CHANDLER, WASHINGTON
ROBERT J. LEONARD, CHIEF COUNSEL
M. KENNETH BOWLER, STAFF DIRECTOR
A.L. SINGLETON, MINORITY CHIEF OF STAFF

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

August 18, 1988

Mr. Norman Goldstein
Chief Financial Officer
Social Security Administration
6400 Security Boulevard
Baltimore, Maryland 21235

Dear Mr. Goldstein:

Thank you for your recent testimony before the Subcommittees on Social Security and Oversight of the Committee on Ways and Means on the crediting of earnings to social security accounts. You will recall that as you were completing your testimony, we indicated that we might ask you to provide additional information for the hearing record. We are writing now to request that you respond to the following questions:

The Social Security Administration form for requesting the new earnings statement and benefit estimate includes two references to SSA's contractor. Has SSA signed, or does it plan to sign, a contract with a private firm to provide the new statement? If so, what role will the private contractor play? Will it have direct access to SSA's computer? What actions has SSA taken, or does it plan to take, to comply with the provisions of the Privacy Act which concern contracting with a private organization?

In addition, Representative Daub has asked that you respond to the following questions:

1. Does the Social Security Administration wish to have legal enforcement authority similar to that of the Internal Revenue Service to assess penalties against employers who fail to file wage information with SSA or who file it late? Do you believe that such a penalty provision would strengthen the letters SSA is now sending to employers in an effort to reconcile the current backlog of discrepant wage records?

2. Does SSA recommend a change in section 205(c) of the Social Security Act -- pertaining to the statute of limitations for correcting earnings records -- to permit posting of additional earnings once the backlog of discrepant records is finally reconciled?

3. GAO's subsample of actual beneficiaries suggested that a significant number of cases had been resolved in connection with the filing of an application. Would it be possible or cost effective for SSA to screen the remaining discrepant cases against beneficiary rolls?

4. How feasible would it be for SSA to contact workers directly to resolve cases in the reconciliation backlog? What segment, if any, can you identify?

5. How was the $500,000 tolerance level for phone contacts with employers determined?

Thank you for responding to these questions. So that your answers can be included in our hearing record, please respond to the Subcommittee on Social Security no later than close of business on Friday, September 16th.

Sincerely,

J.J. Pickle, Chairman
Subcommittee on Oversight

Andy Jacobs, Chairman
Subcommittee on Social Security

[THE FOLLOWING ARE THE RESPONSES OF THE SOCIAL SECURITY ADMINITRATION.]

The Social Security Administration form for requesting the new earnings statement and benefit estimate includes two references to SSA's contractor. Has SSA signed, or does it plan to sign, a contract with a private firm to provide the new statement? If so, what role will the private contractor play? Will it have direct access to SSA's computer? What actions has SSA taken, or does it plan to take, to comply with the provisions of the Privacy Act which concern contracting with a private organization?

SSA has contracted with a private company for printing and mailing of Personal Earnings and Benefit Estimate Statements (PEBES). The contractor will not have access to SSA computers. The contractor will receive via magnetic media the earnings information and benefit estimates from SSA for individuals who have requested PEBES. The contractor will print this information and mail it.

In responding to the Request for Bids the contractor agreed to comply with ". . . Privacy Act of 1974 and the rules and regulations pursuant to the Act . . . ." Further, the contractor was informed in writing that, for the purpose of potential civil suit under the Privacy Act, he would be considered an employee of the Social Security Administration. The contract requires the firm to protect the privacy of the information and return the magnetic tape to SSA as soon as the printing is completed.

1. Does the Social Security Administration wish to have legal enforcement authority similar to that of the Internal Revenue Service to assess penalties against employers who fail to file wage information with SSA or who file it late? Do you believe that such a penalty provision would strengthen the letters SSA is now sending to employers in an effort to reconcile the current backlog of discrepant wage records?

   We do not think that SSA will need enforcement authority, because the memorandum of understanding provides (beginning with cases for tax year 1987) that IRS will assess penalties against employers who fail to file wage reports with SSA and who do not respond to SSA or IRS requests for information during the reconciliation process. The IRS authority to assess penalties should be sufficient to improve compliance in the future.

   Also, beginning with letters we send to employers for tax year 1987, we are working with IRS to include language that will indicate that if the employers do not comply, they may be subject to penalty from IRS.

   With respect to assessing penalties for cases for years before 1987, we will consider referring to IRS for possible penalty assessment cases in which the employer has not cooperated with SSA efforts to resolve a large difference ($500,000).

2. Does SSA recommend a change in section 205(c) of the Social Security Act--pertaining to the statute of limitations for correcting earnings records--to permit posting of additional earnings once the backlog of discrepant records is finally reconciled?

We do not favor legislation to provide additional time for correcting earnings records. Section 205(c) now permits revision of a person's earnings record at any time to credit wages if the employer failed to file a wage report or omitted the individual from a wage report. Since reconciliation cases involving missing wages generally meet these conditions, under current law the workers involved can be credited with their proper earnings at any time. We will, however, re-examine our position in light of the experience we gain under the Memorandum of Understanding and the Personal Earnings and Benefit Estimate Statement.

3. GAO's subsample of actual beneficiaries suggested that a significant number of cases had been resolved in connection with the filing of an application. Would it be possible or cost effective for SSA to screen the remaining discrepant cases against beneficiary rolls?

Screening unresolved reconciliation cases against the beneficiary rolls would generally not be feasible because SSA does not know which workers have unreported earnings. Most reconciliation cases involving unreported wages are cases in which SSA has not received a form W-2 and, therefore, does not know the names of the employees involved.

4. How feasible would it be for SSA to contact workers directly to resolve cases in the reconciliation backlog? What segment, if any, can you identify?

Contacting workers directly to resolve unreconciled wage differences is not feasible because SSA generally does not know which workers have missing earnings. As mentioned in response to question number 3, reconciliation cases involving unreported wages are cases in which SSA has not received forms W-2 and, therefore, does not know the names of the workers involved.

5. How was the $500,000 tolerance level for telephone contacts with employers determined?

This decision was based on a preliminary study we did to determine if it would be effective to contact by telephone employers who did not respond to our written requests for wage information. Once we gain more experience with this project, we will evaluate it and consider whether it would be effective to revise the tolerance level.

ONE HUNDREDTH CONGRESS
DAN ROSTENKOWSKI, ILLINOIS, CHAIRMAN
SAM M. GIBBONS, FLORIDA
J.J. PICKLE, TEXAS
CHARLES B. RANGEL, NEW YORK
FORTNEY H. (PETE) STARK, CALIFORNIA
ANDY JACOBS, JR., INDIANA
HAROLD FORD, TENNESSEE
ED JENKINS, GEORGIA
RICHARD A. GEPHARDT, MISSOURI
THOMAS J. DOWNEY, NEW YORK
FRANK J. GUARINI, NEW JERSEY
MARTY RUSSO, ILLINOIS
DON J. PEASE, OHIO
ROBERT T. MATSUI, CALIFORNIA
BERYL ANTHONY, JR., ARKANSAS
BONNIE G. FLIPPO, ALABAMA
BYRON L. DORGAN, NORTH DAKOTA
BARBARA B. KENNELLY, CONNECTICUT
BRIAN J. DONNELLY, MASSACHUSETTS
WILLIAM J. COYNE, PENNSYLVANIA
MICHAEL A. ANDREWS, TEXAS
SANDER M. LEVIN, MICHIGAN
JIM MOODY, WISCONSIN
JOHN J. DUNCAN, TENNESSEE
BILL ARCHER, TEXAS
GUY VANDER JAGT, MICHIGAN
PHILIP M. CRANE, ILLINOIS
BILL FRENZEL, MINNESOTA
BARBER B. CONABLE, JR., NEW YORK
BILL GRADISON, OHIO
WILLIAM M. THOMAS, CALIFORNIA
RAYMOND J. MCGRATH, NEW YORK
HAL DAUB, NEBRASKA
JUDD GREGG, NEW HAMPSHIRE
HANK BROWN, COLORADO
ROD CHANDLER, WASHINGTON
ROBERT J. LEONARD, CHIEF COUNSEL
M. KENNETH BOWLER, STAFF DIRECTOR
A.L. SINGLETON, MINORITY CHIEF OF STAFF

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

August 24, 1988

The Honorable Dorcas R. Hardy
Commissioner
Social Security Administration
Room 900, Altmeyer Building
6401 Security Boulevard
Baltimore, Maryland 21235

Dear Commissioner Hardy:

On August 9, 1988 the Committee on Ways and Means' Subcommittees on Social Security and Oversight held a joint hearing to examine the adequacy of procedures followed by the Social Security Administration (SSA) and Internal Revenue Service (IRS) in crediting workers' earnings to their social security accounts. During the hearing some confusion arose as to the progress which has been made to date in reconciling inconsistent employer reports. Therefore, we are writing to request your assistance gathering the data addressed in the following questions:

1) How many employers have been sent a written request for missing or discrepant wage records and how many have responded by sending the information requested?

2) How many employers have been selected for telephone contact requesting missing or discrepant wage records, how many have actually been contacted, and how many have responded by sending the information requested?

3) How many workers' earnings records have been corrected as a result of the new information provided to SSA by employers subsequent to agency contact?

4) What is the total dollar value of the wage records which have been reconciled, and what amount remains unreconciled for each year beginning with Tax Year 1978?

We would appreciate your providing us with a report including the answers to these questions and any other data you consider relevant, by October 1, 1988. In addition we ask that you thereafter update this information on a quarterly basis. If you have any questions concerning this matter, please contact either Elaine Fultz, at 225-9263, or Joseph Grant, at 225-5522.

Sincerely,

Andy Jacobs, Jr., Chairman
Subcommittee on Social Security

J. J. Pickle, Chairman
Subcommittee on Oversight

THE COMMISSIONER OF SOCIAL SECURITY
BALTIMORE, MARYLAND 21235

1988

Honorable Andy Jacobs, Jr.
Chairman, Subcommittee on Social Security
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Jacobs:

In your letter of August 24, you asked four questions as a followup to the August 9 hearing held jointly by the Subcommittee on Social Security and the Subcommittee on Oversight, Committee on Ways and Means. Enclosed are our replies to those questions.

As you requested, we will also update this information on a quarterly basis.

I have sent a similar reply to Representative Pickle.

Sincerely,

Dorcas R. Hardy

Dorcas R. Hardy
Commissioner
of Social Security

Enclosures

1. How many employers have been sent a written request for missing or discrepant wage records and how many have responded by sending the information requested?

For tax years 1978 through 1983, SSA has asked employers for information for 3,143,336 reconciliation cases. (We do not know the number of employers, but the number would be less than this because some employers received a request for more than 1 year.) A second request for information was sent in approximately 75-80 percent of these cases because no response was received within 60 days. We have received responses for 1,135,441 cases; in 331,585 cases the employers said that they did not have the information SSA requested.

2. How many employers have been selected for telephone contact requesting missing or discrepant wage records, how many have actually been contacted, and how many have responded by sending the information requested?

For tax years 1978 through 1983, we contacted employers by telephone for 12,564 cases, involving 4,694 employers. We reached 4,150 of these employers and received the requested data from 508 of them.

3. How many workers' earnings records have been corrected as a result of the new information provided to SSA by employers subsequent to agency contact?

About 5.5 million earnings records included in the reconciliation workload for tax years 1978 through 1983 have so far been credited with additional earnings.

4. What is the total dollar value of the wage records which have been reconciled, and what amount remains unreconciled for each year beginning with tax year 1978?

GAO reported a $58.5 billion difference between the amount of wages recorded by SSA and IRS for tax years 1978 through 1984. As of early August, $21 billion of this amount had been reconciled. We do not have available the amount unreconciled by tax year.

ONE HUNDREDTH CONGRESS
DAN ROSTENKOWSKI, ILLINOIS, CHAIRMAN

SAM M. GIBBONS, FLORIDA
J.J. PICKLE, TEXAS
CHARLES B. RANGEL, NEW YORK
FORTNEY H. (PETE) STARK, CALIFORNIA
ANDY JACOBS, JR., INDIANA
HAROLD FORD, TENNESSEE
ED JENKINS, GEORGIA
RICHARD A. GEPHARDT, MISSOURI
THOMAS J. DOWNEY, NEW YORK
FRANK J. GUARINI, NEW JERSEY
MARTY RUSSO, ILLINOIS
DON J. PEASE, OHIO
ROBERT T. MATSUI, CALIFORNIA
BERYL ANTHONY, JR., ARKANSAS
RONNIE G. FLIPPO, ALABAMA
BYRON L. DORGAN, NORTH DAKOTA
BARBARA B. KENNELLY, CONNECTICUT
BRIAN J. DONNELLY, MASSACHUSETTS
WILLIAM J. COYNE, PENNSYLVANIA
MICHAEL A. ANDREWS, TEXAS
SANDER M. LEVIN, MICHIGAN
JIM MOODY, WISCONSIN

JOHN J. DUNCAN, TENNESSEE
BILL ARCHER, TEXAS
GUY VANDER JAGT, MICHIGAN
PHILIP M. CRANE, ILLINOIS
BILL FRENZEL, MINNESOTA
DICK SCHULZE, PENNSYLVANIA
BILL GRADISON, OHIO
WILLIAM M. THOMAS, CALIFORNIA
RAYMOND J. McGRATH, NEW YORK
HAL DAUB, NEBRASKA
JUDD GREGG, NEW HAMPSHIRE
HANK BROWN, COLORADO
ROD CHANDLER, WASHINGTON

ROBERT J. LEONARD, CHIEF COUNSEL
M. KENNETH BOWLER, STAFF DIRECTOR

A.L. SINGLETON, MINORITY CHIEF OF STAFF

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

August 24, 1988

The Honorable M. Peter McPherson
Acting Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Room 3330
Washington, D.C. 20220

Dear Mr. McPherson:

On August 9, 1988 the Committee on Ways and Means' Subcommittees on Social Security and Oversight held a joint hearing to examine the adequacy of procedures followed by the Social Security Administration (SSA) and the Internal Revenue Service (IRS) in crediting workers' earnings to their social security accounts. During that hearing a number of questions were raised which could not be fully answered by the agencies' representatives. We are, therefore, asking you to assist us in our investigations by responding to the following questions.

1) Has the Department of Treasury reviewed the agreement between the IRS and SSA contained in the memorandum of understanding (MOU) which was signed by Commissioners Lawrence Gibbs and Dorcas Hardy on July 12, 1988? Does the Department of Treasury support this agreement?

2) Earlier this year, in responding to questions from the Subcommittee on Oversight, Commissioner Gibbs indicated that the IRS would need additional funding of approximately $7.5 million in Fiscal Year 1989 in order to fully enforce current annual wage reporting requirements. In testimony on August 9, 1988 the IRS's representative indicated that the IRS had requested additional funding for Fiscal Years 1989 and 1990, but that the Department of Treasury had not yet acted on this request. Has the Department of the Treasury decided whether or not to approve the additional funding needed to implement the agreement entered into by the IRS and SSA? If so, what was the decision, and, if not, when will this decision be made?

3) In the past the IRS has unilaterally limited its commitments to enforce employer wage reporting requirements and to reconcile discrepancies in the wages reported to the IRS and SSA. As a result of the most recent MOU, the IRS has testified that, beginning with Tax Year 1987, it anticipates SSA will refer 175,000 cases per year to the Service for further action. Were the IRS to limit its commitment to 175,000 cases per year, we believe that the current MOU would be weakened significantly. Is it the position of the Department of Treasury that the IRS will be responsible for reconciling all cases referred to the IRS by SSA, or does the 175,000 figure represent a new limit on the IRS's commitment to reconcile all cases referred by SSA as stated in the MOU?

4) Under the provisions of the latest MOU, SSA is given the responsibility for reconciling all cases prior to Tax Year 1987. While in many instances SSA's efforts have and will result in voluntary cooperation by employers, SSA lacks enforcement authority when employers choose not to cooperate. We believe that the Service should play a role in these circumstances. What is the Department's policy regarding the Service's investigation of cases prior to Tax Year 1987 where there is reason to believe that the employer failed to file an annual wage report? If such cases were referred to the IRS by SSA, would the Department assert existing statutory non-filing penalties?

5) When workers file their individual income tax returns they are required to attach copies of their employer's Form W-2 which includes the employer's tax identification number and the employee's annual wages. We believe that the IRS and SSA should be able to exchange this information when an employer fails to provide it directly to SSA. If employers fail to file their annual wage reports, would the Treasury support using IRS's individual income tax return records to correct the discrepant or missing SSA records?

We ask these questions because we are concerned that for nearly a decade the discrepancies in employers' annual wage reports have not been properly reconciled. As a result, millions of workers may not receive the benefits they have earned. From the Subcommittee's hearing record it is clear that the IRS did not meet its commitments under the prior agreement with SSA. While a variety of factors contributed to this decision, it is also clear that budget constraints were a major factor in the Service's decision to curtail its reconciliation efforts. This

decision has seriously hampered the maintenance of accurate earnings records because, under existing law, the IRS has the responsibility and authority to enforce the statutory wage reporting requirements. Therefore, should the IRS fail to actively assert its enforcement authority in cases of employer noncompliance, it would significantly reduce the effectiveness of the efforts to correct SSA's records of employee earnings. Finally, we believe, even in the absence of employer cooperation, the IRS has the ability and responsibility to supply SSA with missing wage records when they are available, and that the agencies should cooperate in this effort.

We are encouraged that the Federal agencies involved have begun to reconcile these past discrepancies and to prevent their future occurrence. However, we are concerned that without full Departmental support, the agencies may not be able to live up to their commitments. In addition, we believe that the government should fully consider every approach to correcting employees' wage records.

We appreciate your expeditious response to the matters raised in this letter. Should you have any questions, please do not hesitate to contact either Elaine Fultz, at 225-9263, or Joseph Grant, at 225-5522.

Sincerely,

Andy Jacobs, Jr., Chairman
Subcommittee on Social Security

J. J. Pickle, Chairman
Subcommittee on Oversight

DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

22 SEP 1988

Dear Mr. Chairman:

In response to your August 24, 1988 letter requesting Deputy Secretary McPherson's assistance in investigating the adequacy of current procedures for crediting workers' earnings to their social security accounts, I would be happy to address each of your questions in sequence.

1. The Department has received a copy of the Memorandum of Understanding (MOU) executed between the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Treasury recognizes the importance of ensuring that the wage reporting and reconciliation process operates effectively, and supports the general role played by IRS in that effort. In saying this, the Department also believes that the long term solution to this problem must be based on fundamental improvements in the forms, publications, and procedures, and related processing technologies which drive the process. In that regard, the Department recently agreed to participate with the Office of Management and Budget (OMB) in a longer range examination of the wage reporting and reconciliation process.

2. In FY 1989, IRS projects a workload of slightly in excess of 600,000 tax-related cases from tax year 1987. To complete this workload, the Service plans to allocate 225 staff years and $7.4 million out of existing resources. IRS will begin to work non-tax related cases received from SSA in the first quarter of FY 1990. During the formulation of the FY 1990 budget, which has already begun, Treasury and OMB will be carefully evaluating how the provisions of the MOU will be addressed. The outcome of this evaluation will be presented to Congress in the FY 1990 budget request next January.

3. The 175,000 case level represents the estimated universe of non-tax related cases to be processed annually when the new arrangement between SSA and IRS has been fully implemented. This level, however, does not represent an absolute workload ceiling beyond which the Department would be unwilling to commit resources. If the level of workload significantly exceeds the estimated level, we will necessarily re-evaluate the adequacy of our resource commitment.

90-976 0 - 89 - 4

4. Based on the current agreement, it is not our expectation that SSA will refer a significant number of pre-1987 cases to IRS for enforcement action. Nevertheless, IRS will work closely with SSA on a case-by-case basis to ensure that all follow-up enforcement actions are taken where appropriate. Specific enforcement criteria and coordination protocols governing such actions are still being worked out between IRS and SSA.

5. Disclosure to the Social Security Administration of information from individual income tax returns to correct discrepant or missing SSA records currently is prohibited by IRC 6103. In addition, your proposal raises serious operational concerns for IRS. IRS is examining these issues, and we will carefully consider appropriate statutory changes. We do anticipate that this type of information sharing will be fully supported operationally under the redesigned tax system now under development at IRS.

I fully agree with you that the Department, through the agency of the Internal Revenue Service, has a particular responsibility to see that the wage reconciliation process operates efficiently and effectively. The MOU with the Social Security Administration represents a concrete effort by the Internal Revenue Service in support of a general policy commitment on the part of the Department to fulfill that responsibility.

Sincerely,

(Signed)

John K. Meagher
Assistant Secretary
(Legislative Affairs)

The Honorable Andy Jacobs, Jr.
Chairman, Subcommittee on Social Security
Committee on Ways and Means
U.S. House of Representatives
Washington D.C. 20515

cc: The Honorable J. J. Pickle

[Brief recess.]

Chairman JACOBS. Art Flemming, you are next. Save Our Security Coalition, the Honorable Arthur Flemming, cochairman.

You are our next witness.

It is certainly true that we tend to save the best for last.

You are very welcome, as usual, Dr. Flemming.

Please proceed.

STATEMENT OF ARTHUR S. FLEMMING, COCHAIR, SAVE OUR SECURITY COALITION

Mr. FLEMMING. Thank you, Mr. Chairman.

I appreciate the opportunity for being here. As you indicated, I am the cochair of the Save Our Security Coalition. I appreciate the opportunity of being a spectator at the hearing up to this point because it seems to me this represents our system of checks and balances operating in connection with a very, very important issue.

We have reviewed the memorandum of understanding by SSA and the IRS on July 12, 1988. It is certainly a long overdue step in the right direction.

After reviewing the memorandum of understanding, we have four concerns. First, SSA and IRS should exhaust all possibilities in an effort to eliminate the backlog as soon as possible. If this requires the addition of staff, both agencies should initiate appropriate action to bring this about.

Second, in the effort to eliminate the backlog, any tolerances are unacceptable. The memorandum of understanding does make provision for a tolerance level. While a tolerance level may look modest, it is very likely to hurt the low-income worker who has multiple employers and who will need every cent of earnings to assure that he or she secures all the quarters of coverage he or she is entitled to. This will be a particularly serious problem for seasonal migrant workers.

Third, assuming that SSA and IRS will not completely eliminate all the reconciliation problems which currently exist and that there may also be some problems into the future, it is critical that the Congress take steps to assure that workers are able to correct their earnings records.

The bill, which is our understanding Representative Levin is about to introduce includes a provision which will help with this problem. Under the bill SSA would be required to provide each person with a short statement of earnings at the same time that the person applies for benefits.

If the person feels that there may be an error, SSA will then supply the person with a longer statement. If the person is able to establish that an error has been made, SSA will be required to make the correction.

As this will be an additional exception to the current statute of limitations, it will be a major improvement in the protection available to workers.

Fourth, it is important that the subcommittee learn about what steps SSA is taking to assist aliens entitled to amnesty to correct their earnings records.

In my prepared statement which I filed with the committee I discuss a development involving this group of persons on the basis of information furnished by the migrant legal action program appears to constitute a serious inequity.

Fourth, it is important the subcommittee learn more about what steps SSA is taking—I am sorry.

I turn now to the periodic earnings and benefit statement.

A recent GAO study in the private pension area indicates that most Americans have no idea what their pension plans provide and what benefits, if any, they can expect to receive upon retirement or disability or which their family can receive upon their death.

There is every reason to believe that this uncertainty is just as prevalent among most Americans when they attempt to assess what benefits they will receive from Social Security.

The new periodic statement policy which SSA unveiled on August 4, represents a significant improvement both in the extent of the information being supplied to the beneficiaries and the format and readability of the information. There are at least two gaps in this information which we hope SSA will close.

First, we believe the form should specifically state whether the person is insured for disability benefits purposes. While the notice does indicate the rule for establishing disability insured status, it would be useful if the SSA would say what record is on this score.

Second, the forms do not tell the worker what his or her spouse can expect to receive on the worker's account. The explanation for this is that the spouse may also have earnings on his or her own record and to provide this information will be confusing.

However, there are many spouses particularly middle-aged women who have only very limited earnings records of their own because they worked at home raising the couple's children. They will receive their benefits on their spouse's record.

It would be better if SSA listed the spouse's benefit amount and included an explanation that the amount of the spouse's benefit will be the higher of his or her worker's benefit and the spouse's benefit.

There are four other related problems. First, just as with the earlier statements of earnings, these statements are only available upon request. This is probably due in large part to the fact that SSA does not maintain current addresses for workers.

SSA should take steps to determine if it is possible, through the IRS, to provide this information to all workers. I noted with interest that apparently they are going to make an effort along this line.

Second, as they are currently designed, these statements will make it difficult, if not impossible, for workers to correct their earnings records within the statutory time frame—3 years, 3 months and 15 days. In order to deal with this situation Congress might consider lengthening the basic statute of limitations to at least 5 years. This would help to reduce the risk of incorrect results due simply to the limitation.

My next two points can be summed up in this way. We feel it is critical SSA take the steps to ensure there is adequate staff to accept calls, answers questions and provide accurate information.

Expectations have been raised, and it seems to me that it is very, very important that people should not be let down.

The fact of the matter is running all through my testimony and some of the other testimony is the question of whether or not there is adequate staff.

I know you have held hearings. I think the Oversight Committee has held hearings on this question of adequate staff. I do not feel that it has been right for SSA to resist getting additional staff in order to help step up the quality of service.

The percentage of expenditures for administration is very low, and I feel that it would be a very important investment to make additional investment along this line. That is certainly going to be the case if the issue that is before you at the present time is going to be handled in a satisfactory manner.

Thank you very much, Mr. Chairman, for the opportunity of presenting our views on what we regard as a very serious issue.

[The statement of Mr. Flemming follows:]

STATEMENT OF ARTHUR S. FLEMMING, COCHAIR, SAVE OUR SECURITY COALITION (SOS)

I am Arthur Flemming. I am the co-chair of the Save Our Security Coalition. S.O.S. is a national coalition of over 100 organizations. Its purpose is to work to protect the fiscal integrity of the Social Security and Medicare programs in this country while also seeking ways to expand coverage and increase protection for the many individuals for whom current benefits either do not exist or are inadequate.

I appreciate this opportunity to testify today on the very important issues surrounding correction of earnings records as well as on the matter of personal earnings and benefit statements.

Correction of Earnings Records

We have reviewed the "Memorandum of Understanding" signed by SSA and the IRS on July 12, 1988. It is certainly a long-overdue step in the right direction. It is very easy in considering these problems to get lost in the complexity of the arrangements between SSA and IRS and the variety of forms involved in the process. It is important to focus on the principles which must govern consideration. First, it is critical to the future of the Social Security program that it enjoy the confidence of the American people. Second, every worker who pays FICA taxes on his/her earnings has the right to expect that all of the earnings will be properly posted to his or her earnings record. Third, the Social Security Administration has a clear obligation to assure that all earnings are properly posted to earnings records. Section 205(c)(2)(a) of the Social Security Act clearly spells out this obligation.

After reviewing the Memorandum of Understanding, we have four concerns. First, SSA and IRS should completely eliminate the backlog. If this requires the addition of staff, both agencies should initiate appropriate action to bring this about.

Second, in eliminating the backlogs, any "tolerances" are unacceptable. The Memorandum of Understanding does make provision for a tolerance level. While a tolerance level may look modest, it is very likely to hurt the low-income worker who has multiple employers, who will need every cent of earnings to assure thats/he secures all the quarters of coverage to which s/he is entitled. This will be a particularly serious problem for seasonal, migrant workers. They often do not work for the same employer for periods of even months. In some cases, they will have more than one small earnings statement from different employers in the same quarter. For these individuals, there is absolutely no margin for error; failure to credit any earnings means not only a lower benefit, but the possibility of no benefit at all. It is unacceptable for SSA or the IRS to apply any tolerance level in any worker's case.

Third, assuming that SSA and the IRS will not completely eliminate all of the reconciliation problems which currently exist and that there may also continue to be some problems into the future, it is critical that the Congress take steps to assure that workers are able to correct their earnings records. While the periodic statements discussed below may help to alert some people who request the statement to the fact that their earnings have not been properly credited, many people do not learn of problems until later, when they apply for benefits. If benefits are denied due to insufficient quarters of coverage, the person may seek to learn more about SSA's record of his/her earnings. However, if benefits are granted, the person may never know that s/he is receiving a lower benefit than s/he should simply because SSA has not credited some earnings. If the statute of limitations (three years, three months and fifteen days from the end of the taxable year) has expired and none of the exceptions to the rule apply, the person may be unable to secure credit for the earnings even though s/he paid the FICA taxes and reported the earnings at the proper time.

The bill which Representative Levin is about to introduce includes a provision which will help to correct this problem. Under the bill, SSA would be required to provide each person with a short statement of earnings at the time that the person applies for benefits. If the person believes that there may be an error, SSA will then supply the person with the longer statement. If the person is able to establish that an error has been made, SSA will be required to make the correction. As this will be an additional exception to the current rule, it will be a major improvement in the protections available to workers.

Fourth, it is important that the Subcommittees learn more about what steps SSA is taking to assist aliens entitled to amnesty to correct their earnings records. Every alien seeking amnesty is required to secure a new Social Security Number (SSN), even if he or she already has a number. Last year, SSA regional offices (like the Denver regional office[1]) informed staff that they "will take no action to initiate" correction of records resulting from the use of two or more numbers. This means that aliens seeking amnesty would not be told that they need to correct their earnings records to assure that all earnings are on the correct Social Security number. The memorandum indicated that this would "not eliminate an earnings discrepancy workload altogether." Meanwhile, earlier this year SSA was quoted in The Washington Post as stating that it would prosecute aliens who had used incorrect numbers in the past. And, an attorney at the Migrant Legal Action Program (MLAP) has informed us that she is aware of cases in which the INS has arrested aliens who sought amnesty for prior use of an improper number. The result of these rules and these types of actions has been a chilling effect in the alien communities against asking SSA to place their earnings under the correct Social Security number. The MLAP attorney told us that aliens seeking amnesty are so fearful of fraud prosecution that, when applying for the new Social Security number, they leave empty the box on the SSA form which asks if they have ever used another Social Security number. So, despite the fact that these people have paid FICA taxes on their earnings and despite the fact that the Congress, in granting them amnesty, must have recognized that they had worked using incorrect numbers, they will never be able to take the risk of correcting their records and will never benefit from the taxes they paid because of the threat of prosecution. Steps should be taken to correct what appears to be a serious inequity.

Periodic Earnings and Benefits Statements

A recent GAO study in the private pension area indicates that most Americans have no idea what their pension plans provide and what benefits, if any, they can expect to receive upon retirement or disability or which their family can receive upon their death. There is every reason to believe that this uncertainty is just as prevalent among most Americans when they attempt to assess what benefits they will receive from Social Security.

The new periodic statements which SSA unveiled on August 4, 1988, represent a significant improvement both in the extent of the information being supplied to the workers and the format and readability of the information.

While the new forms do provide helpful information, there are at least two gaps in the information which SSA should correct. First, the form should specifically state whether the person is insured for disability benefit purposes. While the notice does indicate the rules for establishing disability insured status, it would be very useful if SSA would say what the record indicates on this score.

---

1 Denver Regional Program Circular, No. 87-02, dated 1/30/87, "Immigration Act Implementation Report."

second, the forms do not tell the worker what his or her spouse can expect to receive on the worker's account. The explanation for this is that the spouse may also have earnings on his or her own record and to provide this information would be confusing. However, there are many spouses, particularly middle-aged women who have only very limited earnings records of their own because they worked at home raising the couple's children. They will receive their benefits on their spouses' record. It would be better if SSA listed the spouse's benefit amount and included an explanation that the amount of the spouse's benefit will be the higher of his or her worker's benefit and the spouse's benefit.

There are four other related problems. First, just as with the earlier statements of earnings, these statements are only available upon request. This is probably due in large part to the fact that SSA does not maintain current addresses for workers. SSA should take steps to determine if it is possible, through the IRS, to provide this information to all workers.

Second, as they are currently designed, the new statements will make it difficult, if not impossible, for workers to correct their earnings records within the statutory time frame (3 years, 3 months and 15 days). In 1988, for example, the individual is required to provide SSA with estimates of earnings for 1987 and 1988. These estimates are then used in providing the estimates of future benefit levels. The notice informs the person that "to ensure the accuracy of your earnings record, we recommend that you request this statement every 3 years." So the person who requests the estimate in 1988 will be encouraged to seek another statement in 1991. By then, her or his actual 1987 earnings as opposed to the estimated earnings should be posted. But, if they are incorrect and the information is provided after April 15, 1991 (3 years, 3 months and 15 days after the end of the taxable year), the time to correct the record will have lapsed.

In order to deal with this situation Congress might consider lengthening the basic statute of limitations to at least five years. This would help to reduce the risk of incorrect results due simply to the limitation.

Third, as The New York Times reported yesterday, the interest in this information is quite high. It is critical that SSA take the steps to assure that there are adequate staff, as well as telephone lines, to accept calls and answer questions in the local district offices and to process all requests in a timely manner. It is not helpful to the public to be told about an "800" number and then call it repeatedly only to find that it is busy.

Fourth, while the concept of the benefit statement is good, it is critical that the information provided be complete and accurate. If it is not and if workers rely upon it to their detriment, not only the workers but the public's confidence in Social Security will be harmed. It is critical that the Congress continue its oversight of this procedure and assure that it provides American workers with a fair picture of their future.

I appreciate this opportunity to testify today. These are issues of great significance to the American public which go to the very heart of how they view the Social Security programs and the degree of confidence they have in it.

Thank you.

Chairman JACOBS. Thank you, Mr. Flemming.

Mr. Daub.

Mr. DAUB. I did get a chance to go through the better part of your statement. I apologize for just getting back from the floor.

Chairman JACOBS. Mr. Levin.

Mr. LEVIN. Let me ask you a couple of quick questions.

In view of your unique combination of experience and commitment, how serious a problem is this? How worked up should people in government be?

Is it what we have to expect, or should we be on the other end of the spectrum, incensed?

Give me your feeling based on your combination of feeling about these issues and realism about government.

Mr. FLEMMING. I feel it is a very serious problem because we have, all of us have worked over the years to develop confidence on the part of those who are part of the Social Security system and the integrity of that system. And for many of them to suddenly become aware of the fact that the system has broken down and that 9 million persons' records are not up-to-date that they have not received credit for the payments that they have made under the Social Security system, I think certainly tends to undermine confidence in the integrity of the system.

This is one of the reasons why in my comments I indicated our feeling that trying to work this out, the concept of tolerance, a tolerance level should not really be tolerated. The Government Accounting Office in the report that they submitted to the Congress dealt with that, it seemed to me, when they said SSA plans to exclude—that was at the time—about 723,000 reports from review because it believes the earnings differences is too small to entry to resolve. Not investigating such reports, however, GAO said, could mean the loss of about $9 in monthly benefits for low-income individuals.

Some persons may not worry about the loss of $9 a month in benefits, but there are many, many persons who would really be hurt. And to feel that they would, that our Government would permit them to lose that because of a maladministration of the system cannot help but undermine their confidence not just in the Social Security system, but in our from of government.

Mr. LEVIN. I know you don't like to give a simple answer to a complex question. So we can avoid it in the future, just briefly why did it happen?

Mr. FLEMMING. Well, I don't know why it happened. I mean I have not had the opportunity to examine the evidence that has been prepared dealing with that.

I did read the Government Accounting Office report, and that shows, that sheds some light on it. It is clear that two agencies responsibilities in this particular instance just permitted this backlog to build up.

They didn't regard it as a major issue. They permitted the backlog to develop without regard to the impact that that would have on the lives of people. That is maladministration.

I guess a short answer to your question would be it happened because some persons responsible for administration fell down on the job.

Mr. LEVIN. Thank you.

Chairman JACOBS. Again, Dr. Flemming, we are very honored by your presence. We express our gratitude for your contribution.

Mr. FLEMMING. I want to express again my appreciation to both of the committees for tackling this particular issue and tackling it in a way in it has been tackled here today. I appreciate the bipartisan approach to it. I am sure as a result of what you are doing that some people are going to be helped who otherwise wouldn't have been helped.

Chairman JACOBS. We certainly hope so.

Our next panel consists of the American Association of Retired Persons, Dr. J. Clair Jarvis; and the American Federation of Government Employees, Ken Blaylock and Chapin Wilson.

Dr. Jarvis, you are first in line.

STATEMENT OF J. CLAIR JARVIS, MEMBER, NATIONAL LEGISLATIVE COUNCIL, AMERICAN ASSOCIATION OF RETIRED PERSONS

Mr. JARVIS. Thank you, Mr. Chairman, and members of the committee.

I am Dr. Clair Jarvis, a member of the National Legislative Council of the American Association of Retired Persons. I come from Charleston, WV.

I have come to speak not only on behalf of the AARP but to speak on behalf of those who have the most to lose. In a very real sense I am the voice of the people at the grassroots.

The association appreciates the opportunity to testify on the accuracies of wages credited to workers Social Security earnings records. This matter affects young and old, working and retired.

The July 12 agreement between the Social Security Administration and the Internal Revenue Service is a reasonable starting point for solving the problem. However, AARP believes additional steps are needed.

Properly posted earnings determine eligibility and affect benefits. While $58.5 billion represents a very small percentage of total reported earnings, this fact is of little consolation to those who may lose an average of $17 a month.

When the method for employer reporting of wages to IRS and SSA was changed in 1979, a cooperative agreement was signed prescribing each agency's role. It quickly became apparent that IRS lacked the resources to undertake its designated responsibilities.

Yet, SSA continued to rely upon IRS to reconcile differences. As the GAO reported, SSA's organizational structure, changes in its leadership, and pressures related to ongoing staff reductions contributed to the growing backlog.

Although the July 12 agreement incorporates many of GAO's recommendations for resolving the matter, AARP believes there are issues it does not address.

First, there is not guarantee that adequate resources will be allocated to eliminate the backlog by March 1989. The reconciliation process has previously been given low priority and the timetable could easily slip.

Also, if agency personnel are diverted from other tasks, especially by SSA, which continues to reduce staff, other services could suffer.

Second, higher priority should be given to contacting employers for whom the IRS record retention period of four years has already lapsed or is about to lapse. If their records are destroyed workers will lose a vital documentation source.

Congress may wish to consider requiring employers to retain their records until the matter has been resolved. While this may seem burdensome, the alternative, which is the potential loss of benefits, could pose a financial hardship on current and future beneficiaries.

Third, the July 12 agreement permits SSA to continue excluding from reconciliation, discrepancies below the amount needed to gain a quarter of coverage. The GAO report found that this policy, predominantly affecting lower paid workers, costs beneficiaries about $9 per month.

Fourth, AARP believes workers, beneficiaries, and those denied benefits because of insufficient quarters of coverage should be notified of the earnings crediting problem.

Finally, to ensure that workers can change their records, Congress may want to amend the statute of limitations. Without such explicit protection, some persons may be discouraged from pursuing the matter.

The elimination of current and future earnings crediting problems depends on all who participate in the Social Security system, which includes employers and workers. Properly posted earnings reflect employer commitment to providing accurate information and employee vigilance about the correctness of these records.

In conclusion, it would seem, Mr. Chairman, that this situation confirms the need for an independent Social Security Administration run by professional managers.

Thank you, Mr. Chairman, for the courtesy of allowing me to speak on behalf of those who have the most to lose.

And if there are any questions, I will try to respond to them.

[The statement of Mr. Jarvis follows:]

STATEMENT OF THE AMERICAN ASSOCIATION OF RETIRED PERSONS

The American Association of Retired Persons (AARP) appreciates the opportunity to testify on the important issue of the accuracy of wages credited to a worker's Social Security earnings record. This affects nearly every American--young and old, working and retired. The Association commends the Oversight and Social Security subcommittees for examining the adequacy of current wage crediting procedures.

A September 1987 General Accounting Office (GAO) report on the accuracy of earnings crediting indicated that there was a backlog of wages improperly credited as far back as 1978. On July 12 of this year the Social Security Administration (SSA) and the Internal Revenue Service (IRS) finally signed a Memorandum of Understanding (MOU) intended to eliminate the backlog and improve future earnings reporting methods. While the agreement represents a necessary starting point, it is deficient in some ways. AARP believes the following additional steps are needed to ensure an equitable resolution of the problem:

- o continued Congressional oversight until a workable solution is in place; and
- o adequate notification of current workers and beneficiaries regarding the improperly posted earnings.

These changes are vital to assure beneficiaries and current workers that the taxes they paid have been properly credited. Public confidence in the Social Security system has improved somewhat, and another problem such as incorrect earnings records could erode that fragile faith.

I. The Backlog

Since earnings are used to determine an individual's eligibility for Social Security and benefit amounts, improperly credited earnings can have serious consequences. Although the General Accounting Office reports that the $58.5 billion in uncredited earnings between 1978 and 1984 represents only 0.8 of one percent of employee earnings, the fact is of little consolation to those who may lose benefits. Also, the GAO estimate of an average monthly benefit loss --$17-- is a considerable amount for many retirees.

Clearly, the problem of uncredited earnings should not have been allowed to fester. When the method for employer reporting of wages to IRS and SSA was changed in 1978, a Cooperative Agreement proscribed each agency's role in the reconciliation process. It quickly became apparent that IRS lacked the resources to undertake its designated responsibilities. Yet SSA, in the face of a growing backlog, continued to rely upon IRS to complete its role in the reconciliation process. As the GAO reports, SSA lacked adequate internal controls over the wage reporting system to deal with the problem on its own. And, at the same time, changes in SSA's leadership, management's inability to resolve conflicting organizational priorities, and the absence of a financial manager and a financial strategy contributed to the problem. The GAO also concludes that the overall pressure related to recent agency staff reductions played a role.

II The Memorandum of Understanding

The July 12 agreement delineates specific SSA and IRS responsibilities for eliminating the backlog and properly crediting future earnings. While many of the GAO's recommendations for resolving these matters were incorporated in the July 12 MOU, AARP does not believe the MOU fully addressed the problem.

1. Of particular concern is whether adequate resources will be allocated for eliminating the backlog by March 1989 as scheduled. Given the low priority previously assigned to reconciliation by both agencies and the competing demands on agency personnel, the timetable could be pushed back. We have already seen how deadlines can be missed. At the October 1987 House Aging Committee hearing both agencies indicated a desire to have a memorandum of understanding signed by the end of 1987. Obviously this timetable was not met. Moreover, if agency personnel are diverted from other tasks, especially by SSA which continues to reduce staff, one must ask what other services will deteriorate as a result?

2. A more specific plan of action may be needed for contacting employers for whom the IRS record retention period of four years has already lapsed or is about to lapse. The MOU apparently does not make this a top priority. Yet, if these employers are not notified very soon, their records could be destroyed. If that happens, employees with improperly posted earnings will lose a vital documentation source. And, unless those with improperly posted earnings have retained copies of their W-2s or year-end paycheck stubs, affected workers have little recourse except to ask the IRS for their tax records.

Congress may want to consider requiring the appropriate agency to notify employers of the current situation and require that they retain employee records until the matter has been resolved. While this may seem burdensome, the alternative--incomplete earnings records-- could pose a long-term financial hardship on current and future beneficiaries.

3. The MOU permits SSA to continue excluding from reconciliation earnings discrepancies below the amount needed to gain a quarter of coverage. SSA's own studies found that individuals could lose quarters of coverage and even eligibility for benefits when such tolerance levels are used. Wage reports most affected by tolerances are likely to represent earnings for extremely lower paid workers such as household and migrant workers. The GAO report found that such tolerances cost affected workers about $9 per month in lost benefits. The continued use of such tolerances is likely to deprive those most in need of the full value of their Social Security benefit.

III Notification

The MOU may resolve the majority of procedural issues, but it sidesteps the question of whether potentially affected individuals and employers should be notified of the problem. AARP believes the answer is yes.

SSA should be required to send a notice, on a one time only basis, to all beneficiaries. A special form for requesting earnings records at no charge could also be provided. It may also be appropriate for SSA to send notices out to everyone who has been denied benefits since 1978 due to inadequate quarters of coverage. Since SSA codes denials based on inadequate coverage, this is a manageable task.

To notify current workers, a notice and earnings request form should be inserted in the 1040 form which IRS mails out. Notification of current wage earners is critical so they can correct errors while proof of earnings still exists. A corollary benefit of IRS's notification would be to alert workers to the need for periodic reviews of their earnings record. AARP recommends that an educational campaign on the need to check earnings records should be undertaken.

At this point, notification of current workers is probably adequate. It would be premature to require SSA to issue earnings statements on an annual basis. Moreover, until the backlog has been eliminated, any earnings sent before the backlog is cleared might be inaccurate.

IV The Need for Congressional Oversight

AARP believes that Members of Congress do recognize the importance of properly posted earnings records, and that they must play an active oversight role regarding the implementation of the MOU. Many of the procedural changes look good on paper, but in practice they may be difficult to implement effectively. Oversight is crucial to the maintenance of the March 1989 deadline, and it will enable Congress to recommend any MOU modifications that may be needed.

Also, based on the information it receives, Congress may have to pass additional legislation regarding matters such as a time limit for the Secretary of Health and Human Services (HHS) to certify earnings. The Social Security Act, Section 201 (a), specifies that tax money should be transferred to the Social Security trust funds based on the Secretary of HHS's certifying amounts actually recorded in SSA's earnings records. Since 1978 SSA, acting on behalf of HHS, has made "interim certifications" based on quarterly earnings amounts reported by employers to IRS. Because SSA records show $58.5 billion less in earnings than IRS records as of March 1987, the Social Security trust funds may include as much as $7.7 billion in tax revenues for which SSA has no recorded earnings. If Congress chose to amend Section 201 (a) of the Social Security Act to specify a time limit for the Secretary of HHS to certify earnings--such as the employer earnings record retention period specified by IRS-- future backlogs might be averted. Four years is certainly sufficient to complete the reconciliation process.

In addition, Congress, as a result of exercising its oversight function, may find it necessary to amend the statute of limitations regarding the correcting of earnings records. Currently, a wage earner has three years, three months and fifteen days in which to correct earnings record errors. While there are exceptions to the limit, which may cover the current situation, many may be discouraged from pursuing a correction because they do not know about these exceptions. Therefore, it might be advisable to explicitly permit affected wage earners and beneficiaries to correct their records.

V Conclusion

AARP is pleased that considerable progress has been made in a final reconciliation of missing and discrepant earnings records. Suitable reconciliation procedures must be put in place to avoid future problems. Not only are SSA and IRS essential to the solution, but ultimately it involves all participants in the Social Security system. All employers must develop a sense of obligation to properly report earnings to both agencies. And, employees must be vigilant to ensure that earnings are properly posted so that upon retirement they receive the correct Social Security benefit.

Finally, the GAO points out that the SSA organizational structure, which diffuses responsibility, contributed to the situation. This problem confirms the need for an independent Social Security Administrations run by professional managers.

Chairman JACOBS. Thank you.
Mr. Blaylock.

STATEMENT OF KENNETH T. BLAYLOCK, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, ACCOMPANIED BY CHAPIN WILSON, LEGISLATIVE REPRESENTATIVE

Mr. BLAYLOCK. Thank you.

I am Kenneth Blaylock. I am the national president of the American Federation of Government Employees. I have been president of this union for about 12 years.

Over that time I have witnessed a dangerous erosion of integrity in Government and the quality of public service. It slipped rapidly in recent years. As a consequence, I think public attitudes, executive misconduct and ideological perversion have deteriorated.

Nothing angers me more than the arrogant cold calculation of Government benefit analysis by the ministers of this deterioration who would trade the rights of citizens, the safety and health of people, the lives of children for money.

We are glad to be able to present the views of the employees on the subject of this hearing, which is the discrepancies in the Social Security earnings records.

Mr. Chairman, I would like to submit my written statement for the record. I will summarize some of my major points.

It is not a new issue. I know that the employees of the Social Security agency, we represent 60,000 of them, have been bringing this issue to the Appropriations Committees, to this committee, to the agency, to the Government Accounting Office and within our own ranks of our own union.

I don't know that it serves a lot of purpose to discuss why the problem arose. I think it is more important to discuss two issues.

One, I would like to spend some time on what you are being told by Social Security and what employees see as facts, what is happening in Social Security. I would like to spend the rest of my time talking about some recommendations we think are to be essential to correct the problem.

In my testimony, Mr. Chairman, we categorize four different causes of the problem. All of them take somewhat different solutions, but I won't spend a lot of time on that.

In regards to the memorandum of understanding developed between the Social Security Administration and IRS, we think several questions have to be addressed.

What is the size of the backlog? Does anybody really know? What does SSA claim it has accomplished? We heard their testimony today.

I noticed Chairman Pickle taking issue with a good many of the SSA comments. That is not an unusual experience for us in presenting the employee's side of the issue versus what is being told by this agency to the Congress.

And what, in fact, has been accomplished? Besides somewhere around 3.6 million employer reports from 1978 to 1983, there are 2.1 million employer reports from 1984 to 1986, and those are estimates at best.

SSA claims it has almost completed 3.6 million reports. It claims it will complete the 2.1 million by October 1989 and that it has posted $17 billion of the $58 billion outstanding, and that it will take 290 work years in fiscal year 1989 to work the backlog.

SSA's resolution of employee reports only means that SSA sent letters out to the employers. Where are their missing reports? Wage earners will not even be notified.

In fact, nonresponding employers, they will not be referred to IRS for sanctions. In fact, there is no reporting system to generate the $17 billion earnings posting the agency claims to have accomplished.

Unreconciled earnings of the 1978 to 1983 period estimated by SSA to be $43 billion will probably be suspended forever.

In fact, the SSA has the names and addresses to notify all affected employees. The 290 work years they are talking about for fiscal year 1989 must be the effort needed to mail to employers. There is no magic computer, no wand to be waved to make the work load disappear.

Mr. Chairman, after $600 million has been spent on the SSA's system modernization, earnings records and reconciliations are still largely manually done. Our workers at the Office of Central Records Operation in Baltimore don't even have computer terminals, much less terminals with access to the mainframe.

In summary, Mr. Chairman, we would like to ask the Congress to take several actions immediately.

One, adopt a staffing floor for as SSA passed by the Senate. Two, convert the 2,500 or so seasonal employers of the Data Operations Center to full time. Mandate that all claims for benefits be conditionally paid until a thorough review of the records is made.

Require the SSA to send a notice of earnings to each worker. Require SSA to notify each worker whose records cannot be reconciled for the 1978–86 period.

We speak in favor of the legislation Congressman Levin is preparing to be introduced.

Mr. Chairman, in short, you have a staffing problem, and you have a policy problem. We are glad to see this committee focusing on this problem. We pledge our support and cooperation.

We would be glad to answer any questions you may have.

[The statement of Mr. Blaylock follows:]

STATEMENT BY
KENNETH T. BLAYLOCK
NATIONAL PRESIDENT
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
(AFL-CIO)

My name is Kenneth T. Blaylock. I am the National President of the American Federation of Government Employees (AFGE), AFL-CIO. AFGE represents 700,000 government employees, including almost 60,000 workers in the Social Security Administration (SSA). I am accompanied today by Chapin E. Wilson, Jr.

Problems with earnings discrepancies in Social Security records are not new. The recent GAO reports and the law suit which is pending against SSA only underscores the seriousness of it. What concerns us is that the problem worsens and that SSA has historically abdicated responsibility for it. Not only during this current administration, but for a period of twenty years this problem has been willfully neglected.

Today it is a $58 billion (1978-1983) problem. While this is indeed a small portion of the total earnings credited to Social Security records, and so represents a statistically small error rate in itself, it represents substantial benefits to those whose earnings records are wrong. The sampling of GAO found the average benefit loss at $17 per month, which over the lifetime of benefits equates to over $3,700. By GAO extrapolation almost 10 million beneficiaries may be affected -- thus, shortchanging the American public of $3.7 billion of benefits that they have earned and to which they are legally entitled.

Historically, SSA has held that to correct these earnings discrepancies is not cost-effective. Clearly the question is: Cost effective for whom? If the initial estimates of GAO are correct, the administrative costs (about 2,600 workyears) are about $91 million. SSA evidently deems that the investment is too great.

We would ask: by what right, by what legal authority can SSA deny these Americans their lawfully earned benefits? But even if SSA had some discretion which permits it to decide which citizen shall be denied the benefits he or she has paid for, by what self-righteous formula of cost and benefit can SSA fail to ensure that the beneficiary gets the benefits to which he or she is entitled? When does it become too expensive for the federal government to give each citizen what he or she is due under the law? What shall it cost our democracy to deny our citizens their lawful rights?

I have been National President of AFGE for twelve years, beginning at the time of the Administration of President Ford. Over that time I have witnessed a dangerous erosion of the integrity of government and the quality of public services. It has slid precipitously in the recent years. It is a consequence of public attitudes, Congressional inaction, executive misconduct and ideological perversion. But nothing angers me more than the arrogant cold calculations of cost-benefit analyses by the ministers of this deterioration, who would trade the rights of citizens, the safety and health of people, the lives of children, for money.

What is the price we should pay to correct these errors? What is the right amount to pay to see that the beneficiary is correctly paid? I suppose there is a trade-off where the cost of providing

the benefit is more than the tax payer wishes to pay for it. By my simple arithmetic, this problem costs less to fix than 2.5% of the value of the benefits due. But even if it cost 5% or 10%, is that too great a price? I imagine if you gave these beneficiaries the choice they would think not.

The point is: they are not given the choice. Their rights and benefits are taken from them anonymously, arbitrarily; literally, they are mere numbers in the computer's "suspense file", never to be heard from again. Before that great Mammon, they are sacrificed without feeling or concern. I do not mean to sensationalize the issue. But, it's not only the benefits of some unfortunate citizen that is at stake, though that should be enough to warrant this hearing; the rule of law is also at stake. The equality of citizens before the law is at stake. If the formulas of cost and benefits dictate when and how the law applies or to whom it applies, justice is a lottery and my rights and your rights are a spin of the wheel.

I want to put this problem in perspective. It is not new, as I said. This union in fact first testified before Ways and Means about it in 1979, and it had existed long before that. The problem of earnings discrepancies can be divided into four categories.

The first category -- the common discrepancies -- have always existed. Until 1978, SSA had routinely identified and sought to correct them. But as the workloads of SSI and the Blacklung overwhelmed the administration of SSA during the period of 1972-1977, SSA found it did not have the resources to correct these discrepancies. Prior to this period listings of earnings discrepancies and so-called "scrambled earnings" were referred to field offices and corrected in a matter of weeks; as the workloads of SSI took their toll on SSA, earnings discrepancies took well-over a year to complete and many went uncorrected as they were sorted for attention and some deferred indefinitely. In 1978 SSA stopped identifying and routinely referring them to field offices for correction because they did not have sufficient staff. The routine has never been reestablished.

The second category are those earnings discrepancies which occurred in the years 1977-1979 when SSA first started up its program for wage reporting on magnetic tape and SSA began to process W-2's. Other hearings and reports have spoken to the mismanagement of these activities; we will not revisit that here. But the magnitude of the discrepancies was as great as 1/3 of all earnings in some of these years, affecting therefore as many as 40 million workers. We do not believe these discrepancies were ever resolved. Indeed we are concerned that SSA never intends to correct them. If the early estimates are still correct, the scope and impact of earnings discrepancies may be very much greater than GAO estimated. It could mean that up to 1/3 of all recent retirees (over 1.5 million annually) are substantially shortchanged -- losing as much as $50 per month, if the earnings discrepancy represented a high year of earnings.

The third category of earnings discrepancies which are only now becoming visible are those caused by the fraudulent use of social security numbers by illegal workers who are now given amnesty and citizenship. Once these workers come forward to identify their earnings, once SSA begins to find the records where these earnings are incorrectly located, a massive workload of "scrambled earnings" will ensue. According to the GAO the SSA has stated that it will take as many as 11,500 workyears to properly post these earnings. SSA Regional Office directives make it clear that the SSA does not intend to address the problem. Rather individuals applying under immigration reform for an SSN are not to be informed that they may have scrambled earnings.

The fourth category are those earnings discrepancies which are the focus of this hearing: where the discrepancy between employer reports to IRS and the earnings reported by an employer to SSA for the worker is substantially different -- often substantially less -- than what is shown on IRS employer reports

As you know the SSA and IRS have recently negotiated a memorandum of understanding (MOU). The MOU is prospective, that is SSA and IRS will begin sharing responsibility to jointly reconcile earnings discrepancy for tax year 1987. SSA is responsible for the backlog prior to 1987. Several questions need to be addressed. 1. What is the size of the backlog? 2. What has SSA claimed it has accomplished? 3. What in fact has been accomplished?

1. Size - 3.6 million employer reports 1978-1983
   2.1 million employer reports 1984-1986

2. SSA claims that -
   a. it has virtually completed the 3.6 million reports
   b. it will complete the 2.1 million by October, 1989
   c. it has posted $17 billion of the $58 billion outstanding
   d. it will take 290 workyears in FY 89 to work the backlog

(source "SSA Management Newsletter" 7/15/88 and statements by Sam Prestianni; Special Assistant to SSA's Chief Financial Officer at a recent Congressional staff briefing)

3. In fact -
   a. SSA's "resolution" of employer reports only means that SSA has sent letters out to the employers
   b. Where there are "missing" reports wage earners will not be notified
   c. Non responding employers will not be referred to IRS for sanction
   d. There is no reporting system to generate the $17 billion earnings postings the agency claims to have accomplished
   e. Unreconciled earnings for 1978-1983 estimated by SSA to be $41 billion will probably be suspended forever in the NERF file (non detailed employer report file)

f. The SSA has the names and addresses to notify all affected employees
g. The 290 workyears for FY 89 must be the effort needed to mail notices to employers. Reconciling earnings is time consuming. No magic computer wand can be waved to make the workload disappear.
h. After $600 million spent on Systems Modernization earnings records reconciliations are still largely manually done. Our workers at the Office of Central Records Operations in Baltimore do not have computer terminals at all, much less terminals with access to the mainframe computer.

In summary the SSAs "resolution" of the earnings discrepancies is a cruel hoax and a charade. Particularly hard hit will be low wage employees and those who have multiple employers in a tax year. The latter will be prohibited from having their earnings corrected where the SSA's 3 year 3 month 15 day rule applies. Commissioner Hardy's recent flurry of activity regarding the issuing of earnings statements, that is giving wage earners "notice" of their earnings postings, is no solution. It is fundamentally flawed. It doesn't address prospective retirees who are subject to an offset,spousal benefits, or employees who work under "integrated" pension plans. And of course there is the continuing problem which rings true. You can't get through on Dorcas' latest 800 number. What this latest initiative really does is to shift the burden of record keeping from SSA to the unsuspecting taxpayer.

It is our belief that SSA has a legal and ethical responsibility to correct these earnings discrepancies. Each category we outlined requires its own management plan. But the bottom line is that resources -- and that means increased staffing -- must be committed to it if we can expect to correct these discrepancies and recompute the benefits of those that are affected and to accomplish it within a reasonable period of time.

We believe the Congress should take immediate action:

* adopt the staffing floor for SSA passed by the Senate, so that further erosion of resources will not occur;

* convert the 2,500 or so seasonal employees of the Data Operations Centers to full-time permanent employees; this is a highly productive workforce that is well-qualified and equipped to handle much of this workload; currently these persons are laid-off for as long as six months annually, depriving them of full employment when their work is needed, but also incurring upon the government the cost of their unemployment benefits; it is a wise investment on many counts to make these workers full-time permanent employees;

* mandate that all claims for benefits be conditionally paid until a thorough review of the full earnings records can be made;

* require the SSA to send a notice of earnings to each worker as SSA completes each year's posting

* require SSA to notify each worker whose record cannot be fully reconciled for the 1978-1986 period

* adopt Rep. Levin's soon to be introduced Social Security Services Improvement Act of 1988 which contains relevant earnings records provisions

* support legislation to establish SSA as an independent agency; we believe that the problems we speak of at this hearing and others addressed at other hearings over the past few years are the result of bad management and the politicalization of its administration; we are convinced that nothing less than a complete reorganization and a complete change in its leadership and focas can reverse the practices which have made SSA the most embarrassingly mismanaged agency in government.

Thank you for this opportunity to testify. We would be happy to answer any questions you may have.

Chairman JACOBS. Thank you, Mr. Blaylock.

Mr. Daub.

Mr. DAUB. Just a couple of questions if I might.

Dr. Jarvis, how many people or person hours do you believe would be necessary to complete the investigations by the deadline?

You say in your statement that it is not going to be met and there is a shortage of people. What is your basis for that conclusion, if you have concluded that is the case. You certainly can tell us how many people we are going to need to solve the problem.

Mr. JARVIS. I do not have that information Congressman at this point. We would be glad to research that for you and get the information back to you. But I do not have access to it.

[The following was subsequently received:]

AARP

August 22, 1988

The Honorable Hal Daub
United States House of Representatives
Washington, D. C. 20515

Dear Representative Daub:

This letter is in response to the question you posed to Dr. J. Clair Jarvis of the American Association of Retired Persons (AARP) at the August 9 hearing on the accuracy of earnings records. You asked about the basis on which the Association concluded that the Social Security Administration (SSA) may have allocated insufficient resources to meet the March 1989 timetable for completing the reconciliation backlog.

AARP believes SSA's and the Internal Revenue Service's (IRS) progress must be monitored so that adequate staff and resources are allocated to eliminate the backlog in a timely manner. Our testimony did not suggest that the deadline would slip, rather the Association believes the possibility should not be overlooked. Our concern regarding the adequacy of SSA resources is based, to some extent, on the SSA staff memorandum quoted on page 38 of the General Accounting Office (GAO) report, "More Must Be Done to Credit Earnings to Individuals' Accounts". The SSA document estimates that as many as 2500 workyears might be required to correct discrepancies for 1978-1983 alone. AARP recognizes that SSA has already devoted some staff time to clearing the backlog. However, their allocation of only 290 workyears to complete the backlog may be inadequate in light of the earlier estimate.

Congress and the Association share the same goal: insuring that workers receive the proper Social Security benefit to which they are entitled. This is not only important to a beneficiary's economic security but it is also essential to maintaining public confidence in the Social Security system.

AARP hopes this letter clarifies our position.

Sincerely,

Horace B. Deets

Horace B. Deets

American Association of Retired Persons 1909 K Street, N.W., Washington, D.C. 20049 (202) 872-4700

Louise D. Crooks *President* Horace B. Deets *Executive Director*

Mr. DAUB. If as you say we have got a staffing problem and you are critical of it and you say we are not being told the right information, what we need to find out—although we are going to go look ourselves—is if you have insight or information about it? Do we need 20 people, 700 people or more people?

We would like to have the benefit of your thinking on that.

Mr. JARVIS. If that information is available through our office, I have not had access to it.

Mr. DAUB. Thank you.

Mr. Blaylock, you would require SSA to send a notice of earnings to each worker as SSA completes each year's posting, so that this year when I get my record posted, I get another record, a piece of mail from SSA. Every worker, every year is going to get a piece of mail?

Mr. BLAYLOCK. Yes, sir. That way you can keep up with your records.

Mr. DAUB. How much do you think that will cost?

Mr. BLAYLOCK. How many people do you have in the Social Security system?

Mr. DAUB. You tell me.

Mr. BLAYLOCK. I am not sure about the cost. You are looking at generating a letter. The record is going to be generated anyway. So you are picking up the expense of postage which the Government franks and the cost of an envelope.

Mr. DAUB. Wouldn't you figure we would be sending about 120 million notices a year?

Mr. BLAYLOCK. I think they claim there are 110 million employees in the country right now.

Mr. DAUB. You have some people with two jobs, two postings in 1 year. Even if we are talking about absorbing the postage free in the system, there would be manhours, computer time, printing and mailing. Half the records may be OK. We assume the system has problems with 50 percent and 50 percent are OK.

What if we did it every other year or every third year? What if we look at the file on the project now underway where we end up with a system that does trigger automatic statements? Is that what you are trying to get at? I am thinking, boy, is that overkill a little bit?

Mr. BLAYLOCK. I think, Mr. Congressman, the basic thing we are trying to get at and the point I made in my initial statement——

Mr. DAUB. We want to cure a $5 billion posting problem——

Mr. BLAYLOCK. The point I am getting at, when you look at the size of the problem, the cost, the man-years comparison, you are talking about roughly $19 million in man-years to correct the problem. The point I am making in my initial statement, the taxpayers are paying for this anyway.

Why should they not be entitled to what their earnings are as they move through their work life?

Mr. DAUB. I think we agree.

Mr. BLAYLOCK. If it costs a dollar, it costs a dollar.

Mr. DAUB. It is the question of how to forge the most effective result with the least discrepancy each year when we post the workers' records. I am trying to get a good understanding of what I un-

derstand may be Mr. Levin's soon to be introduced Social Security Improvements Act.

How do we require SSA to notify the employer whose record cannot be fully reconciled? What are we accomplishing?

Mr. BLAYLOCK. One thing you alert the worker that they have a fouled up record. They have all those names and addresses in the system. When they hit a nonreconciled situation, then they notify the worker and that gives the person and the agency the opportunity to get to the agency. That is the problem.

Over the years the problems were ignored. It started in 1978. There was a policy decision made to ignore the problem.

Mr. DAUB. That might be better than mailing to everybody every year. I am trying to sort out where the problem is. That makes sense, as a matter of fact.

Let me see if I had questions about any other recommendations. How about the staffing question I asked Dr. Jarvis about. You say make the part timers full time. Does that solve the problem? Does that give you enough staff?

Mr. BLAYLOCK. According to the GAO estimate. They talked about 2,600 years. To be very candid, we know we have about 2,500 seasonal employees in the data operations centers. You pay them half a year's salary and then we wind up paying unemployment comp for the rest of the year.

It is like if you or I start out in a drive in our automobile from here to Atlanta, we don't say we are going to put one tank of gas in the car. You have a staffing problem in SSA. It makes sense to us to convert the people who are already trained. That hits pretty close to the GAO number of 2,600 man-years as you can see from the report.

It seems to us to be the way to do it. If you couple that with the manpower floor put into the Senate bill, it comes close to the full-time equivalents necessary to get this thing out of the way. That is our rationale.

Mr. DAUB. Thank you.

Mr. WILSON. The 2,500 or 2,600 staff years is actually SSA's number of how many employees it would take to reconcile these earnings from 1978 to 1984. It appeared in a GAO report in 1986. It was quoted again in GAO/HRD 8752, that is the report that is the subject of this hearing. This is an SSA internal number. So the 290 work years the agency currently uses is roughly slightly more than one-tenth of the hours the agency earlier said it would take to reconcile these earnings.

They have made a policy change, not to reconcile the earnings really, but simply to send out letters.

Mr. DAUB. I must say I am cost conscious as I know you are. What kind of automation procedures could also be used to augment and offset the need for 3,000 more people for the next 10 years?

I don't want to exaggerate but take the problem in its purest form to give us a dose of good government when something in between could probably get the problem solved. We are going to be building more and more record files presuming there is a backlog that will grow if you don't do something else you are doing.

Half the problem may be the Government. Half of it is out there in the reporting world from business, industry, and statistics. And institutions complicate the problem.

Mr. WILSON. One of the ironies here is that SSA has spent enormous money, capital, and human resources as well on their system's modernization. This issue of posting earnings, however, is one where they have spent very little money. The Baltimore office is not automated as are the field offices where all the time is spent on front-end claims.

That is where the agency puts all its money because it makes the front-end statistics look good. This back log never appeared before the 1986 appropriations request from the agency. It was hidden. Only when the GAO put out its reports did they say they have a problem, but they never told the House or Senate committees about the problem whatsoever.

Mr. DAUB. I realize that. I visualize the files growing from 38 million records to 54 million records by the year 2010. We have to be equipped to deal with it. Again, I will point out that half or more of this problem is generated from a variety of employer data that comes in on everything, even something as thin as toilet paper.

To get this straight is the heart of the problem. We want to do the best we can with what we get in government. A lot of that is frustrated for us because we don't get the data to post in a timely fashion. That is why the enforcement issue is interesting.

Mr. BLAYLOCK. That frustration is more than felt by the employees. They are working the nuts and bolts of it.

Mr. DAUB. They know the data comes in and it is not as clean as it should be.

Mr. BLAYLOCK. They know how the data comes in. We continually try to bring the views of the workers at the work level.

Mr. DAUB. It is a very manual process. It will never be purely automated.

Mr. BLAYLOCK. We hope out of these hearings something will move.

Chairman JACOBS. Mr. Levin.

Mr. LEVIN. I think the last couple of minutes have gotten to the nub of the issue. Sometimes at 4:30 it gets awfully dull, but I think the interchange between Congressman Daub and the witnesses the last few minutes has put its finger on it.

In a word, how worked up should we get about a problem that is 2 percent or only 2 percent? That is why the question was put to Dr. Flemming. I thought he answered it. I also think it is the most inexcusable aspect when government itself is inattentive.

It is bad enough when it is a major source of the problem. But when it tries to hide it under a bushel basket, that really is inexcusable. I have not been sure how pervasive, how deep the problem is, or exactly what the answer is. But for us to just sit around, whether it is in Washington or Baltimore and let it pile up and get worse and worse, I think that is reprehensible.

Chairman JACOBS. We thank the panel for their contribution to the record.

STATEMENT OF LANDIS NEAL, EXECUTIVE DIRECTOR, NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE, ACCOMPANIED BY ROBIN JACOBSOHN, COUNSEL

Chairman JACOBS. Our final witness today is Ms. Landis Neal who represents the National Committee To Preserve Social Security and Medicare.

Ms. NEAL. Good afternoon, Mr. Chairman. Thank you for the opportunity to appear before you today. With me is Robin Jacobsohn with the law firm of Williams & Connolly. Williams & Connolly has been retained by the national committee to represent our 5 million supporters of the national committee in a lawsuit filed in Federal court in April.

The 10-year history of this problem is one of chronic agency inaction and delay, and the integrity of the Social Security program is in question here.

The Social Security Administration and the Internal Revenue Service have known about this problem for years, yet made little effort to resolve it until very recently.

According to the General Accounting Office, between 1978 and 1984, more than $58 billion in wages, for which taxes had already been paid, had not been credited to the Social Security records of nearly 10 million individual workers.

Every year that goes by, sees this problem compounded as the number of unreconciled employer reports increases by an average of 650,000 annually.

As early as 1982, the Inspector General of Health and Human Services recommended that SSA give priority attention to 580,000 backlogged cases from 1978 alone.

SSA agreed to do so, yet, as GAO reported, by October 1986—4 years later—SSA had attempted to reconcile only 84,000 of those cases.

At an October 1987 congressional hearing, the agencies promised to present a plan to resolve this problem by December.

December came and went.

They next promised a final plan by March 1988, but this promise proved equally empty.

This history of delay after delay is what prompted the national committee to file suit.

We asked the court to force a speedy resolution of all backlogged cases and the adoption of measures to ensure that this problem never recurs in the future.

Even in the judicial forum, however, the pattern of delay has persisted, as the agencies sought three separate extensions to court deadlines for responding to our lawsuit.

The memorandum of understanding reached shortly before the second extended court deadline is certainly a positive step forward.

The agreement fails, however, to adequately address several fundamental aspects of the problem identified in our lawsuit.

For example, the agreement fails to ensure resolution of the huge backlog of cases through tax year 1986.

Although the Congress has been told that nearly three and a half million pre-1984 unreconciled wage reports have been resolved, the

fact is, these cases have often been marked "closed" after the most cursory attempts were made to contact employers.

Two letters and perhaps a phone call are not enough, in our view.

In about half of the supposedly "resolved" cases, SSA received no reply to inquiries made of employers and simply marked the cases "closed".

For hundreds of thousands more, SSA considered the amounts involved "too small" to justify reconciliation—even though that decision disproportionately impacted those at the lower end of the income scale who are most dependent on Social Security benefits.

The bottom line is that of the missing $58 billion in uncredited wages through 1984, only $20 billion have been accounted for.

After 10 years of excuses and delays, Congress should not allow the agency to define the problem away by administrative decree.

Rather than further delays or inadequate steps, the agencies should be aggressively moving to protect employer records and to notify affected workers and retirees.

Instead of modifying the standard recommendation to workers to check their records every 3 years, the agency apparently will make no effort to inform the public that there is a problem of growing inaccuracies in millions of records.

In fact, it seems that an air of silence has surrounded this issue and the problem has grown to mammouth proportions outside of public awareness and congressional oversight.

Now we are told that because a memorandum of understanding has been reached, the problem is solved.

But a very similar memorandum was signed between these agencies in 1978.

One certain lesson that should derive from this whole unfortunate problem is the importance of public hearings, public notices, and forthright reports to Congress.

Social Security benefits are not a gift from the government, they are earned.

Surely, workers in this country deserve more than to be told that benefits will be reduced because the agencies they rely upon were unwilling to fulfill their obligation to accurately maintain basic records.

The national committee welcomes the congressional attention being focused on this problem, and we are hopeful that a combination of congressional oversight and judicial remedies will achieve a complete and permanent solution.

[The statement of Landis Neal follows:]

STATEMENT OF LANDIS NEAL, EXECUTIVE DIRECTOR, NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE

Good afternoon Mr. Chairman. My name is Landis Neal, and I am Executive Director of the National Committee to Preserve Social Security and Medicare. Thank you for the opportunity to present testimony on the problems associated with the proper crediting of wages to individual Social Security accounts.

With me this afternoon is Robin Jacobsohn, an attorney with the lawfirm of Williams & Connolly which has been retained by the National Committee to represent our five million members and supporters, and others similarly situated, in a lawsuit relating to this matter that was filed in federal court in April.

The ten-year history of this problem is one of chronic agency inaction and delay. The Social Security Administration (SSA) and Internal Revenue Service (IRS) have known about this problem for years, yet made little effort to resolve it until very recently. According to the General Accounting Office (GAO), between 1978 and 1984, over $58 billion in wages, for which taxes had already been paid, had not been credited to the Social Security records of approximately 10 million individual workers.

As resolution of the problem drags on, many more workers are affected. SSA recently reported that 2.1 million unreconciled employer reports had accumulated during tax years 1984-86, in addition to the 3.5 million from 1978-83. As far back as July 1982, the Inspector General of the Department of Health and Human Services recommended that SSA give priority attention to the 580,000 backlogged cases from 1978 alone. SSA agreed to do so, yet, as GAO reported, by October 1986 SSA had attempted to reconcile only 84,000 of those cases.

Unfortunately, this delay can have damaging effects. Employer records are often necessary to help SSA identify the individual records in error. Yet IRS regulations currently allow an employer to destroy these records after only 4 years. The agencies themselves concede that the longer the delay, the more difficult becomes the task of correcting inaccurate records.

At an October 1987 Congressional hearing, the agencies promised to present a plan to resolve this problem by December. December came and went with no action by the agencies. They next promised a final plan by March 1988, but this promise proved equally empty. In April 1988, the National Committee decided that it could await agency action no longer, and filed suit in federal court, seeking to force prompt resolution of the backlogged cases, and the adoption of measures to ensure that the problem does not recur in the future.

Even in the judicial forum, however, agency inaction persisted, as the agency defendants sought three delays in the deadline for responding to the lawsuit.

The new agreement--reached shortly before the government's second extended deadline for responding to the suit--is certainly a positive step forward. Unfortunately, the agreement fails adequately to address several significant aspects of the problem identified in the suit.

Some of the problems not resolved by the new agreement are outlined below:

- The backlog of unreconciled cases through tax year 1986
- The application of tolerances levels (below which the agencies will undertake no reconciliation efforts) by both IRS and SSA
- The failure to notify potentially affected workers of the possibility that wages are missing from their Social Security earnings records
- The failure to assist affected workers who may no longer have records needed to verify their actual earnings
- The failure to educate the public about

  --The possibilty of missing wages
  --The need to verify their own Social Security earnings records
  --The need to save their own income data, in case future verification is necessary

- The failure to require employers to retain their records pending full reconciliation of missing/discrepant wage reports
- The lack of publication and required notice and comment proceedings (designed to ensure public awareness of, and input into, agency decisions that affect millions of Americans)
- The failure to establish time limits within which final Trust Fund certification must be completed
- The potential time-frame problems (i.e., the possibility that inter-agency data exchange and employer contacts will not be completed before employer records are destroyed)
- The absence of any assurance that the reconciliation problem which developed under the original inter-agency agreement will not recur under this new agreement

For example, the agreement fails to include any provision to ensure true resolution of the huge backlog of unreconciled cases through tax year 1986. SSA now claims that it has "resolved" almost all of the 3.5 million cases of missing or discrepant employer wage reports that accumulated between 1978 and 1983. What SSA means, however, is that it considers these cases closed. Unfortunately, for hundreds of thousands of these cases, the agency made no effort to correct the records because the amount involved was, in its view, "too small." For the remaining cases, SSA did nothing more than send two letters to the employer (asking for more information), and sometimes follow-up with a phone call. In approximately half of those cases, SSA

received no response, and even when employers did respond, they were often unable or unwilling to provide the necessary information. Nonetheless, in all of these instances, SSA apparently considers its responsibility to be completed, and will initiate no further action. Thus, of the $58 billion in uncredited wages from 1978-84, SSA has only been able to account for approximately $20 billion. Congress should not permit the agency to define its way out of this problem. Moreover, these numbers do not take into account the additional unreconciled employer reports that have continued to accumulate.

The agencies try to minimize the problem by noting the large percentage of wages that are accurately recorded every year. This provides little comfort, however, to those poor and minority workers who both GAO and SSA have acknowledged are disproportionately affected by the reconciliation problem.

SSA should be as aggressive in pursuing earnings information from employers as it is in pursuing overpayments from beneficiaries. Moreover, the IRS, whose role under the new agreement begins only with tax year 1987, should be enlisted in resolving these backlogged cases. The IRS has additional information in its files, and the ability to impose employer penalties--two resources that could make the difference in many cases which SSA is now unable to correct.

SSA also claims that it will reduce one of the tolerance levels it uses to isolate hundreds of thousands of employer reports which it will make no effort to reconcile. Thus, SSA contends that it will now attempt to reconcile all cases where the missing or discrepant wage amount involving any single employer report exceeds that needed for an individual to obtain a quarter of Social Security coverage. For individuals with multiple employers, however, the cumulative effect can be a deprivation of several quarters of coverage. Even for those who do not lose entire quarters, they can nonetheless be deprived of the full level of benefits to which they are legally entitled, because their Social Security records will reflect less than the full amount of wages earned. In light of SSA's concession that its tolerance level policy disproportionately harms individuals in the lowest income brackets, it is a policy which we hope Congress will not "tolerate." It is also important to note that the new inter-agency agreement leaves open the possibility that IRS will apply its own set of tolerances before undertaking reconciliation or imposing penalties on non-reporting employers.

The agreement has no provision for notifying potentially affected employees of the possibility that wages are missing from their records, so that they might be able to undertake their own efforts to document the wages actually earned. Indeed, there is apparently no specific plan to warn the public of the possible inaccuracies in their Social Security records, or to inform them of the measures they can take (such as checking their records and saving their own W-2s and other wage verification data) to help minimize the consequences of these recording gaps. SSA's standard recommendation that workers obtain an SSA earnings statement every three years is simply not enough. Moreover, there is the possibility that the statute of limitations for correcting those earnings would already have expired.

The new agreement also fails to require employers to retain their records pending completion of the reconciliation

process. Although we support SSA's recent efforts at employer education, they cannot be relied upon as a full-proof solution.

The National Committee is also concerned about the agencies' persistent failure to hold the hearings necessary to obtain public input into decisions which have adversely affected millions of Americans, or even to make public these decisions after the fact. This secrecy undoubtedly explains how this problem could grow to such proportions, and continue for so long, unnoticed. Indeed, continued public scrutiny will be essential to ensure that the problem does not recur in the future.

The mere fact of a new agency agreement should not be allowed to deflect Congressional scrutiny. The agencies reached a similar paper agreement for shared reconciliation efforts as far back as 1978, but it obviously did nothing in practice to prevent the problem which we are here today to discuss. Indeed, the latest agreement contains several provisions which the agencies could use, as they did in the past, to escape their reconciliation responsibilities. Moreover, the agreement is based on the explicit assumption that new SSA procedures will reduce the annual number of reconciliation cases, yet provides no contingency if that assumption proves incorrect.

As Congress examines this problem, it should also consider the extent to which the reconciliation problem may be inherent in the annual wage reporting system authorized by legislation passed in 1976. If not satisfied that the agencies can adequately cope with the problem, statutory revision may be in order.

The National Committee welcomes the Congressional attention being focused on this problem, and is hopeful that a combination of efforts in both legislative and judicial forums will be able to bring this problem to a complete and permanent solution.

Social Security benefits are not a gift from the government; they represent money paid into the system throughout an individual's working life, and to which a worker and her family is entitled at the time of retirement, disability, or death. Workers in this country deserve more than to be told, when they apply for those benefits, that they fail to qualify, or qualify for less than they earned, because the government was unwilling to fulfill its obligation to maintain accurate records.

Chairman JACOBS. Thank you. Mr. Daub.

Mr. DAUB. The committee increases its credibility by the testimony that you have given. We appreciate your being here.

Ms. NEAL. Thank you, very much.

Chairman JACOBS. Mr. Levin.

Mr. LEVIN. The bells are ringing.

Chairman JACOBS. We thank you for your testimony this afternoon. The subcommittees are adjourned.

[Whereupon, at 4:35 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

90-976 O - 89 - 5

Prepared Statement of
Representative Edward R. Roybal
Chairman, Select Committee on Aging

For the Subcommittee on Social Security
and
Subcommittee on Oversight
Committee on Ways and Means

August 9, 1988

I commend Chairman Jacobs and Chairman Pickle for convening this important joint hearing on the crediting of wages to social security accounts. After nearly a year of negotiations, on July 12th, 1988, the Social Security Administration (SSA) and the Internal Revenue Service (IRS) finally signed a Memorandum of Understanding (MOU) to address problems associated with the proper crediting of individuals' earnings to their social security accounts. However, it is important that the Congress monitor the details of this agreement to ensure that all workers receive proper credit for the benefits to which they are entitled. I am delighted that the committees are thoroughly examining means to improve the accuracy and reliability of the wage-crediting system.

As the Chairman of the Select Committee on Aging, I have been actively involved in the earnings reconciliation issue over the past year. An October, 1987 hearing conducted by my Subcommittee on Retirement Income and Employment examined a GAO report which claimed that SSA and IRS had failed to reconcile the differences in wage reports provided to the agencies by employers, with the result that millions of workers' earnings had not been credited to their Social Security accounts.Both IRS and SSA testified about the problem at this hearing, and I was assured that necessary changes in the MOU would be completed by the end of 1987.

In December, the Subcommittee held a briefing at which both SSA and IRS acknowledged that there was a fundamental stumbling block to an inter-agency resolution. I subsequently sent a letter to IRS and SSA stating my concern over the inability of the agencies to reconcile their differences, and remained in contact with them to seek a resolution to the impasse. During the weeks before the final MOU was signed, I was in frequent contact with IRS Commissioner Gibbs and SSA Commissioner Hardy to seek a final agreement.

It is tragic that substantial numbers of senior citizens and American workers have had to endure hardship this long due to the inability of these agencies to come to a mutual understanding. The GAO report estimated that as many as 9.7 million individuals have uncredited earnings in their SSA accounts because of the reconciliation workload. Each year, there are an estimated 650,000 new cases in which SSA and IRS records on employee earnings do not agree.

Since earnings are used to determine an individual's eligibility for Social Security and benefit amounts, uncredited earnings can affect benefit payments. According to the GAO, current and future beneficiaries have lost benefits because of SSA's failure to credit their earnings. GAO examined the records of retired workers with missing or discrepant wage reports in 1980 and 1981. One quarter of those retired workers sampled were entitled to an average of $17.00 more in benefits in a month when earnings were credited.

It is my hope that the recently signed MOU is a major step toward restoring accurate Social Security benefits. On July 20th, one week after the MOU was signed, the Retirement Income and Employment Subcommittee sponsored a briefing to inform Congressional staff about the provisions of the newly signed agreement. Representatives from SSA and IRS who spoke at this briefing outlined the following major provisions in the agreement:

- o SSA will reconcile cases for 1978 through 1986 (1983 reconciliation is almost completed, and 1984-86 is expected to be completed in FY 1989);
- o beginning with tax year 1987, SSA will make the initial contact with employers for reconciliation cases; those cases it cannot resolve will be referred to IRS to handle;

- o IRS will assess penalties on nonfiling employers who fail to respond to SSA and IRS contacts, and SSA will identify late filing employers for IRS to assess penalties;
- 0 the tolerance level for cases reconciled by SSA is one quarter of coverage per employer record ($470 in 1987); however, IRS will not reconcile discrepant reports if the dollar amount on employer records is less than $1,785;
- 0 employers will be required to ensure that records reported to IRS and SSA agree;
- 0 education efforts will be targeted to employers about proper completion of SSA and IRS forms;
- 0 ongoing inter-agency workgroups will be formed to evaluate the reconciliation process.

Although I am extremely pleased that the agreement between IRS and SSA was signed, I believe that the Congress must continue to carefully observe the progress made in reconciling individuals' earning accounts. The effectiveness of the MOU will depend upon continued cooperation between the two agencies, and allocation of sufficient staff resources to the reconciliation process.

There are some remaining issues that are of particular concern to me.First, is the discrepancy in tolerance levels between IRS and SSA. SSA will reconcile employer records that are above one quarter coverage ($470), but IRS is still using a figure of $1,785. What happens when SSA cannot reconcile a case, sends it to IRS, and the case falls within the $470 and $1,785 range?

Secondly, I am concerned that a vast number of cases will never be reconciled because of lack of response by employers. SSA's procedure is to contact employers with discrepant records, first by letter, and then by telephone. If employers do not respond, then the cases cannot be reconciled. SSA states that there are not enough resources to contact each employee. Even if employees were contacted, they would need to have proof of earnings; many persons would not have such records. Based upon current attempts to reach employers, SSA estimates that 50% of employers will not respond.

Also, cases fall into 2 categories; those with discrepancies and those with missing data. According to SSA, discrepant cases will be more easily reconciled. If data are missing, such as social security numbers, the cases cannot be reconciled. Currently, approximately 70% of cases fall into the "missing" category. I am deeply concerned that unless these remaining issues are addressed, individuals will not receive accurate benefits.

I urge all individual workers to check their wage records on a regular basis. Currently, on an annual basis, only 3 million individuals check their wage records. Earnings records should be checked approximately every three years. Social Security has a form (#SSA-7004 PC-OP2) which can be picked up at any local Social Security office or ordered by calling 1-800-937-2000. This form allows an individual to ask SSA for a copy of his/her Social Security earnings history and an estimate of retirement benefits.

Thank you again for holding this hearing. I look forward to reviewing the record of the hearings, and working with you to bring this problem to resolution. I intend to continue to monitor the wage reconciliation process and work towards a policy which ensures that all individuals are receiving the earnings history and benefits they deserve.

American Federation of Labor and Congress of Industrial Organizations

815 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 637-5000

EXECUTIVE COUNCIL

LANE KIRKLAND PRESIDENT **THOMAS R. DONAHUE** SECRETARY-TREASURER

Frederick O'Neal
Angelo Fosco
William H. Wynn
Joyce D. Miller
James E. Hatfield
Vincent R. Sombrotto
Marvin J. Boede
John T. Joyce
Larry Dugan Jr.
Gene Upshaw
Jack Sheinkman
Jackie Presser
Albert Shanker
Kenneth T. Blaylock
John DeConcini
John J. Sweeney
Barbara Hutchinson
Gerald W. McEntee
Patrick J. Campbell
Lynn R. Williams
Robert A. Georgine
Jay Mazur
John J. Barry
Edward T. Hanley
William W. Winpisinger
Wayne E. Glenn
Frank Drozak
Richard I. Kilroy
William H. Bywater
Owen Bieber
Morton Bahr
Milan Stone
Lenore Miller
John A. Gannon

September 8, 1988

Honorable Andy Jacobs, Jr., Chairman
Subcommittee on Social Security
Committee on Ways and Means
U. S. House of Representatives
1102 Longworth House Office Building
Washington, D. C. 20515

Dear Mr. Chairman:

Although the AFL-CIO was not able to testify at the Subcommittee's August 9 hearing on crediting earnings to Social Security accounts, we would like to take this opportunity to express our support for initiatives to improve the accuracy and efficiency of this process.

Since 1978, when employers began reporting earnings to both the Social Security Administration and the IRS, glaring discrepancies have appeared in these records, causing some beneficiaries to receive an inaccurate benefit. If action is not taken on this issue, we fear that it will erode the confidence the public has in the Social Security system.

An organized checks and balance system using tax return information to verify social security's earnings records would eliminate these discrepancies and ensure that workers are credited their earnings accurately. In addition, we urge that any outstanding inquiries to the Social Security Administration from beneficiaries be addressed expeditiously. In that regard, we believe that SSA and IRS's recent policy statement countenancing "tolerances" (or a certain error rate in earnings records) be revoked, and that every effort be made to give workers a reasonable time period to correct their earnings records once problems or discrepancies are discovered.

We support your efforts to cut the red tape in the present system and develop a streamlined process which accurately reflects individuals' earnings. We also urge the committee to direct the Social Security Administration to take the steps necessary to ensure that all inquiries about earnings are processed in a timely manner.

The AFL-CIO will be glad to assist the Subcommittee, in any way possible, to improve the wage-crediting system and guarantee fair and equitable benefits for all participants.

Sincerely,

Robert M. McGlotten, Director
Department of Legislation

Statement of the Honorable Phil Crane
Social Security Hearing - 8/9/88

Chairman Jacobs, Chairman Pickle, I look forward to today's hearing. Certainly accurate earnings records are essential to the retirement planning of the vast majority of American workers. Therefore I am particularly interested in the initiatives that Commissioner Hardy is taking to expand and improve the data sent to workers who request status reports on their earnings record.

I understand the Commissioner is planning a pilot study to test the feasibility of sending unsolicited statements of earnings to a number of workers, chosen at random.

I am this week introducing enabling legislation to facilitate that pilot. This legislation is necessary to permit the Social Security Administration to obtain workers' addresses from the IRS. SSA has in its files the addresses of beneficiaries, and the employers who report earnings. But it does not record, nor is there any compelling reason for it to record, a worker's most current address. The legislation will assure that the pilot is completed and that a report is made to Congress.

On the face of it, the idea of providing periodic statements of earnings, along with data on insured status and potential benefits, is highly attractive. However, before SSA commits itself to contacting every worker periodically, I think it would be wise for Congress to assess the feasibility of the project, the impact on workers -- that is their reception to and use of the earnings information -- and the cost of providing such data.

I invite the Members of the Oversight and Social Security Subcommittees to join me as cosponsors. I believe this pilot is a logical outgrowth of today's hearing. Workers must be encouraged to help Social Security maintain accurate earnings records. No matter how well SSA and IRS work together to maintain those records, some slippage seems inevitable. Our hearing today questions the reconciliation and posting of 0.8% of the total reported wages between 1978 and 1984. I'm not sure how much better the process can work; that is the subject we are here to consider. But, the fact is that for various reasons some wages are never reported and therefore fall outside the scope of this hearing. Workers must take more initiative to ensure those earnings are posted. Periodic wage statements would, I am convinced, invite that scrutiny.

I realize time is running out in this legislative session, but, if necessary, I will reintroduce my bill in 1989 and urge you to join me in enacting its provisions.

Statement of Romano L. Mazzoli
Member of Congress
Third District, Kentucky
Submitted to the
House Committee on Ways and Means Joint Hearing
Discussing the Crediting of Wages to Social Security Accounts

August 9, 1988

I would like to thank the Chairman of the Ways and Means Subcommittee on Social Security, Mr. Jacobs, and the Chairman of its Subcommittee on Oversight, Mr. Pickle, for allowing me to make a part of the record my statement regarding efforts by the Social Security Administration (SSA) and the Internal Revenue Service (IRS) to reconcile the Social Security earnings records of some 10 million workers. I commend the Gentlemen on their expeditious action on this matter.

I was extremely distressed to learn that -- since 1978, when Congress required the SSA to collect its own data from employers for use in determining benefits -- discrepancies began to show up between the employees' earnings records received by the SSA and the IRS. Last year, these differences represented a gap of over $58 billion, and recent studies estimate that this gap could adversely affect the Social Security benefits of some 10 million future retirees!

It is my understanding that no current Social Security recipients are affected by these discrepancies. However, for those 10 million who will retire in the years ahead, their records must be reconciled so that -- when the time comes -- they will receive the full and correct amount of benefits to which they are entitled.

While this will not be an easy task, it is one which must be addressed immediately so as not to compound the problem. Along those lines, I was pleased that the SSA and the IRS reached an agreement last month to work together to reconcile the earnings records.

While the Social Security system was never intended to be the sole source of an individual's retirement income, it does provide important benefits, which individuals take into account in planning for their financial futures. Therefore, workers' earnings records must accurately reflect their life-time contributions into the system. Because of the potential impact this could have on individuals in Louisville and Jefferson County, Kentucky -- which I am privileged to serve -- and millions of other contributing workers across the nation, I have contacted SSA and IRS officials, requesting progress reports on reconciliation efforts.

I am pleased that these hearings have been convened to monitor the activities to correct the earnings record discrepancies and to discuss proposals for improving the accuracy and reliability of crediting earnings to Social Security accounts. I whole-heartedly support my colleagues in their efforts and thank them again for allowing me to participate in these proceedings.

PREPARED STATEMENT OF THE HONORABLE TOM TAUKE
TO A JOINT HEARING OF THE
SUBCOMMITTEE ON OVERSIGHT AND THE
SUBCOMMITTEE ON SOCIAL SECURITY
COMMITTEE ON WAYS AND MEANS
AUGUST 9, 1988

Ten years ago Congress enacted legislation that changed the wage reporting requirements of private sector employers (PL 94-202, Paperwork Reduction Act). Prior to 1978, employers were required to submit quarterly employee wage reports to both the Internal Revenue Service (IRS) and the Social Security Administration (SSA). The 1978 law requires that employers submit quarterly wage reports (Form 941) to the IRS and an Annual Wage Report (Form W-2) to the SSA. The Annual Wage Report contains earnings data on individual workers, while the IRS wage report reflects payroll tax information on the employer's entire workforce.

The 1978 wage reporting law instructed the IRS and SSA to develop a procedure by which to compare employer wage and tax records. The Memorandum of Understanding (MOU) details the responsibilities and procedures for comparing wage and tax data and for reconciling differences in the reports. While the IRS and SSA constructed the MOU to primarily ensure that the SSA could certify that both worker accounts and benefits are correct, and also that the Trust Fund balance is correct, the agencies failed to implement the MOU.

The original MOU assigned specific wage report reconciliation tasks to each agency. The IRS was supposed to be responsible for reconciling discrepant wage and tax records and the SSA was required to post earnings to workers' accounts and to certify that the earnings records (therefore benefits), and the Trust Fund balance, were correct. In all these years since the MOU was first signed, the process was never implemented.

No educational campaign was undertaken and no workshops were held to ensure that employers understood the 1978 changes. Many employers consistently filed wage reports incorrectly. One of the more frustrating facts in regard to the uncredited earnings issue is that the IRS and SSA were well aware of the consistent reporting errors, yet no action was taken to correct the wage reporting problems.

Last September, the General Accounting Office (GAO) issued a report on the efforts of the SSA and the IRS to reconcile differences in employer wage reports. The GAO report, Social Security: "More Must Be Done to Credit Earnings to Individuals' Accounts," estimates that 10 million Social Security earnings records could be delinquent for at least one year of earnings. These individual accounts represent approximately 3.5 million employer reports (from 2.5 million employers which demonstrates the lack of knowledge on the 1978 changes) are unaccounted for. The Trust Fund balance could also be incorrect. According to the GAO, the Trust Fund could be incorrect to the tune of $7.7 billion in tax revenue from earnings that are not posted to individual accounts. The inability to implement the reconciliation procedure erodes the public's confidence in the Social Security system.

It is important to also recognize that of the 10 million inaccurate Social Security earnings records (and this could be a ballpark figure), there are several unknown factors which cannot be identified by either the IRS or SSA:

- the number of workers on discrepant employer records;
- the number of wage reports that are no longer available;
- the number of Social Security claimants who have been denied benefits are a result of uncredited earnings and;
- the number of disabled and retired beneficiaries who receive reduced benefits as a result of uncredited earnings.

By ignoring the discrepancies between the SSA and IRS wage reports and not identifying missing wage reports, the SSA could owe beneficiaries (and their survivors) millions of dollars in earned benefits. Since we cannot estimate the number of beneficiaries who are receiving lower benefits than they earned, the SSA cannot estimate the impact of retroactive payments and benefit increases on the Trust Fund. SSA recorded $58.5 billion less in annual earnings than employer/employee payroll taxes to the IRS. Depending on how you view the total unposted earnings, $58.5 billion could be insignificant or significant. The unposted wages represent a minute fraction of total covered wages (.8 of one percent). However, the payroll tax assets in the Trust Fund equal about $7.7 billion.

Most important, the $58.5 billion in unposted earnings could cost beneficiaries hundreds of dollars in benefits each year. Beneficiaries could receive as much as $200 less each month in accrued benefits. According to GAO estimates, average income beneficiaries with unposted earnings lose an average of 17 dollars per month in benefits. This may not sound like a lot of money. For a beneficiary with average benefits, 17 dollars is probably more than the last COLA increase. Low wage earners with uncredited earnings could lose as much a 9 dollars in benefits each month.

One issue of particular concern to me was the use of a tolerance level to identify earnings records that would be reconciled. According to the SSA testimony, when the IRS received an employer wage report for which the SSA did not, and the uncredited earnings amounted to less than one quarter of coverage, the SSA would not post earnings to workers' accounts. In addition, the SSA would not reconcile cases in which the difference in the employer wage reports to the IRS and SSA was less than $1,785. Consider that the discrepant wage reports could very well involve amounts much higher than $1,785, but that the difference in the wage reports was less than $1,785. This tolerance level reflects the SSA concern for cost effectiveness potentially at the expense of entitlement to benefits. The GAO found that the use of tolerance levels resulted in the loss of entitlement for some workers.

I am the vice chairman of the Select Committee on Aging's Subcommittee on Retirement Income and Employment. Shortly after the GAO report was released, the subcommittee convened a hearing on the unposted earnings issue. Clearly, the SSA and IRS were well aware of the unreconciled wage report problem, yet neither agency attempted to resolve the issue. The subcommittee strongly urged the SSA and IRS to address the problems with the MOU. We were assured by both agencies that the issue would be resolved by the end of 1987.

Chairman Roybal and I frequently inquired to the SSA and IRS on progress toward resolving the SSA-IRS dispute. In mid-December, the subcommittee requested that the SSA and IRS update the subcommittee on the progress of the negotiations -- deep divisions remained on specific MOU revisions. The subcommittee attempted to expedite the interagency negotiations and made recommendations to the SSA and IRS regarding specific revisions of the MOU. While the SSA and IRS generally accepted the recommendations of the subcommittee, the dispute dragged on. (Attachments #1 and #2)

On March 8th, I received a letter from the IRS which stated that the SSA and IRS had reached a "conceptual agreement" on the division of the unreconciled caseload. (Attachment #3) I anticipated that the revised MOU would be signed by early April. Commissioner Hardy of the SSA signed the MOU on April 14th. (Attachment #4) Assuming that Commissioner Gibb's signature was forthcoming, I closed the file -- temporarily.

After months of negotiations, and prodding from the subcommittee, the final agreement was entangled in an unrelated dispute between the SSA and IRS. (Attachment #5) The subcommittee once again urged that the IRS sign the MOU. (Attachment #6) Commissioner Gibbs signed a revised MOU and

In addition, the IRS version of the MOU included new language which had not been negotiated by the SSA and IRS. This revision placed a limit on the number of annual wage reports that the IRS would reconcile each year. (Attachment #7) The agencies have the obligation to not only resolve the backlog of unreconciled wage reports but to ensure that all future reconciliation work is completed in a timely manner.

In the final MOU, the IRS agreed to:

- o conduct all tax related reconciliaton work beginning with the 1987 tax year;
- o contact employers in cases of underpayment of Social Security taxes;
- o impose fines on employes that do not respond to either the IRS or SSA;
- o allow the SSA to review pertinent employer wage reporting forms to ensure that the form will not conflict with SSA reporting needs;
- o provide the SSA with all pertinent wage and tip data for SSA posting purposes and;
- o update pending caseloads on a weekly basis to the SSA (the subcommittee will request that the IRS provide periodic updates).

The SSA agreed to:

- o resolve all backlogged cases in tax years 1978-1986;
- o resolve all discrepant accounts (eliminate the tolerance level);
- o balance all FICA wage reports and identify out-of-balance reports. SSA will identify reporting errors subject to IRS penalties;
- o contact employers with missing or discrepant reports and send notices and;
- o investigate errors, validate SSNs, other verification work necessary to identify and notify taxpayers for whom reconciliation work has been done.

The SSA and IRS agreed to share responsibility for:

- o reevaluate the reporting process annually and issue a report on the year's activities;
- o form a working group to meet periodically on the progress on reconciliation works and revisions of wage reporting forms;
- o establish service levels -- timeliness and accuracy expectations and;
- o design education workshops for employers to improve reporting practices on a regional basis.

Ostensibly, the uncredited earnings issue is resolved, however, the revised MOU must be implemented. The SSA and IRS track record on implementing a reconciliation process is obviously poor. I urge the Subcommittees on Oversight and on Social Security to oversee the SSA and IRS progress to reconcile wage reports.

As I indicated above, the SSA agreed to resolve all backlogged cases. The SSA has made progress to eliminate the backlog. It is my understanding that the SSA has "resolved" 25 percent of the 3.5 million cases, 1978-83. This represents a $21 billion reduction in the $58.5 billion in uncredited earnings. The fact is that much of the uncredited earnings problem will never be properly posted because employers are only required to maintain employee wage data for four years. The older 1978-83 cases may be never be accurately resolved. Thus, it is possible that workers with identified discrepancies may never have their records corrected.

I commend Commissioners Hardy and Gibbs for their diligent efforts to revise MOU and to implement a reconciliation process. At the same time, I strongly urge the subcommittee to consider if legislation is necessary to ensure that all uncredited earnings are correctly posted to workers' accounts. From my perspective, the public's trust in Social Security is in serious jeopardy over this issue. If you can't count on Social Security to pay accurate, earned benefits, then what can you be certain of?

There are two particular issues that I request that the IRS and SSA address during this hearing.

1. Employers are required to maintain employee wage records for four years. In cases where no documentation of earnings remains on record with employers, will any adjustment be made for identified, uncredited earnings?

The fact is that potentially thousands of employer wage reports could no longer exist. Even with the SSA-IRS agreement on revisions in the MOU, potentially thousands of earnings records will not be corrected. With this in mind, the issue is not finally resolved: Congress should consider taking steps to ensure that undocumented, uncredited earnings are correctly posted to workers' accounts.

Additionally, it is my understanding that the SSA will make two attempts to contact employers with missing wage records. If the SSA receives no response, the case will be considered "resolved." The Congress should also consider whether or not this constitutes an acceptable resolution to the uncredited earnings issue.

2. Employers and employees could have paid Social Security taxes on earnings that are no longer documented.

If the Trust Fund contains tax revenue for uncredited earnings for which no employer wage report exists, should the Trust Fund keep the money? Should the taxpayer, if he can be identified, receive a refund? Should the Trust Fund simply send the money to the Treasury and contribute to reducing the deficit?

As I have already indicated, the uncredited earnings issue could seriously erode public confidence in the Social Security system. It is quite possible that workers will pay Social Security taxes on earnings that will not be counted in determining earned benefits.

The SSA and IRS are finally addressing the uncredited earnings issue. The signing of the revised MOU is an important first step. There are, however, important questions that must still be answered.

ATTACHMENT #1

EDWARD R. ROYBAL, CALIFORNIA
CHAIRMAN

THOMAS J. DOWNEY, NEW YORK
MARILYN LLOYD, TENNESSEE
MARY ROSE OAKAR, OHIO
MIKE SYNAR, OKLAHOMA
GEO. W. CROCKETT, JR., MICHIGAN
NICK JOE RAHALL, II, WEST VIRGINIA
ROBERT E. WISE, JR., WEST VIRGINIA
HAROLD L. VOLKMER, MISSOURI
THOMAS J. MANTON, NEW YORK
RICHARD H. STALLINGS, IDAHO

LOWELL ARYE
DEPUTY STAFF DIRECTOR
(202) 226-3335

U.S. House of Representatives

SELECT COMMITTEE ON AGING

SUBCOMMITTEE ON RETIREMENT INCOME AND EMPLOYMENT

714 HOUSE OFFICE BUILDING ANNEX 1

Washington, DC 20515

December 18, 1987

THOMAS J. TAUKE, IOWA
RANKING REPUBLICAN MEMBER

BENJAMIN A. GILMAN, NEW YORK
JAMES M. JEFFORDS, VERMONT
HARRIS W. FAWELL, ILLINOIS
PATRICK L. SWINDALL, GEORGIA
PAUL B. HENRY, MICHIGAN
BILL SCHUETTE, MICHIGAN
FLOYD SPENCE, SOUTH CAROLINA
MATTHEW J. RINALDO, NEW JERSEY
(EX OFFICIO)

JANE WILLIAMS
REPUBLICAN STAFF DIRECTOR

ANNE O'DONNELL
ASSISTANT STAFF DIRECTOR
(202) 226-3338

Dorcas Hardy
Commissioner
Social Security Administration
Altmeyer Building
Baltimore, Md. 21235

Dear Commissioner Hardy:

We are concerned about the efforts of the Internal Revenue Service (IRS) and the Social Security Administration (SSA) to resolve differences regarding the implementation of Public Law 94-202. As you know, this law revised the employer wage reporting requirements. We understand that early next week the Chief Financial Officer will meet with the IRS Deputy Commissioner for Operations to discuss the outstanding unresolved issues on revisions to the Memorandum of Understanding (MOU).

In October, our subcommittee convened a hearing to examine a report that was issued by the General Accounting Office. During the hearing, we heard testimony from both the IRS and SSA. We were pleased to learn that both agencies are pursuing an expeditious resolution to the uncredited earnings problem. In addition, we were confident that necessary changes in the MOU would be completed by the end of 1987, as the IRS and SSA assured us during the hearing. Our staff has been in constant contact with both agencies on this issue, and it is our understanding that a fundamental stumbling block to an inter-agency resolution still exists.

We believe that Public Law 94-202 clearly defines the responsibility for reconciling employer wage reports to the IRS and SSA. The Memorandum of Understanding, as revised in 1979, specifically outlines the responsibilities of the IRS and SSA to reconcile employer wage reports. While the SSA has the responsibility to correct individual workers' earnings records, the IRS has the obligation to reconcile the employer wage reports that are submitted to the two agencies. According to the MOU, IRS is responsible for reconciling the differences between the IRS and SSA records. The IRS is supposed to use whatever means necessary to verify employer wage reports, identify missing employer wage reports and ensure that these reports are forthcoming to the agency. Although the IRS initially agreed to accept this responsibility, no wage report reconciliation has been completed for any year since the 1978 wage reporting changes.

It is our understanding that the IRS modified its position on the fundamental issues to which the agency had agreed in the 1979 MOU. According to the IRS testimony to our subcommittee, the agency is only responsible for tax administration. Clearly, the primary objective of the IRS is to collect and account for tax revenues. However, the IRS should consider that objectives of the Social Security system and those of the IRS are clearly linked in this case. The SSA does not have the ability to compare employer wage reports. At the same time, it is necessary for the IRS to examine worker earnings records. Without cooperation from both agencies, neither important task can be completed. Therefore, we believe that the intent of the law and the MOU is to amend the mission of the IRS to one which aids the SSA in its mission of ensuring that individuals and beneficiaries receive all the benefits to which they are entitled.

According to information that you provided to us, the IRS has proposed changes in the MOU. Under the terms of the IRS suggestions, the agency would resolve cases in which there is a significant tax liability. The standard criteria for employer wage report reconciliation would be a revenue-yield to cost-basis ratio, in other words, an estimated tax revenue to the availability of resources and budget ratio. SSA, on the other hand, would be responsible for cases in which the wage reporting error is an understatement that reduces the earnings records of current and future beneficiaries. This distinction of cases loses sight of one of the primary goals of reconciliation. Wage report reconciliation is important not only for the revenue implications, but also to ensure the accuracy of SSA records. With this in mind, we conclude that one agency, namely the IRS, has both the ability and the responsibility to reconcile discrepant employer wage reports.

We are optimistic that you will resolve the outstanding differences between the IRS and SSA in an expeditious manner. The SSA has demonstrated to us that resolving the unreconciled wage reports issue is a top priority. In addition, I recognize that you and Norm Goldstein have worked diligently and thoughtfully toward a resolution of this problem. We are most appreciative of your efforts to apprise us of the progress of your negotiations and also the assistance of your staff in conducting an informative briefing on December 10th. We appreciate your timely consideration of our concerns.

Sincerely,

Edward R. Roybal
Chairman

Tom Tauke
Ranking Minority Member

EDWARD R. ROYBAL CALIFORNIA
CHAIRMAN

THOMAS J. DOWNEY NEW YORK
MARILYN LLOYD TENNESSEE
MARY ROSE OAKAR OHIO
MIKE SYNAR OKLAHOMA
GEO. W. CROCKETT, JR. MICHIGAN
RICK BOUCHER VIRGINIA
ROBERT E. WISE, JR. WEST VIRGINIA
HAROLD L. WARNER MISSOURI
THOMAS J. MANTON NEW YORK
RICHARD H. STALLINGS IDAHO

CARL J. ARVE
DEPUTY STAFF DIRECTOR
(202) 226-3335

U.S. House of Representatives

SELECT COMMITTEE ON AGING
SUBCOMMITTEE ON RETIREMENT INCOME AND EMPLOYMENT
714 HOUSE OFFICE BUILDING ANNEX 1
Washington, DC 20515
December 18, 1987

THOMAS J. TAUKE IOWA
RANKING REPUBLICAN MEMBER

NORMAN D. SHUMWAY CALIFORNIA
JAMES M. JEFFORDS VERMONT
HARRIS W. FAWELL ILLINOIS
PATRICK J. SWINDALL GEORGIA
PAUL B. HENRY MICHIGAN
BILL SCHUETTE MICHIGAN
FLOYD SPENCE SOUTH CAROLINA
MATTHEW J. RINALDO NEW JERSEY
(EX OFFICIO)

JANE WILLIAMS
REPUBLICAN STAFF DIRECTOR

ANNE O'DONNELL
ASSISTANT STAFF DIRECTOR
(202) 226-3336

Lawrence E. Gibbs
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N. W.
Washington, D. C. 20224

Dear Commissioner Gibbs:

We are concerned about the efforts of the Internal Revenue Service (IRS) and the Social Security Administration (SSA) to resolve differences regarding the implementation of Public Law 94-202. As you know, this law revised the employer wage reporting requirements. We understand that early next week the IRS Deputy Commissioner for Operations will meet with the SSA Chief Financial Officer to discuss the outstanding unresolved issues on revisions to the Memorandum of Understanding (MOU).

In October, our subcommittee convened a hearing to examine a report that was issued by the General Accounting Office. During the hearing, we heard testimony from both the IRS and SSA. We were pleased to learn that both agencies are pursuing an expeditious resolution to the uncredited earnings problem. In addition, we were confident that necessary changes in the MOU would be completed by the end of 1987, as the IRS and SSA assured us during the hearing. Our staff has been in constant contact with both agencies on this issue, and it is our understanding that a fundamental stumbling block to an inter-agency resolution still exists.

We believe that Public Law 94-202 clearly defines the responsibility for reconciling employer wage reports to the IRS and SSA. The Memorandum of Understanding, as revised in 1979, specifically outlines the responsibilities of the IRS and SSA to reconcile employer wage reports. While the SSA has the responsibility to correct individual workers' earnings records, the IRS has the obligation to reconcile the employer wage reports that are submitted to the two agencies. According to the MOU, IRS is responsible for reconciling the differences between the IRS and SSA records. The IRS is supposed to use whatever means necessary to verify employer wage reports, identify missing employer wage reports and ensure that these reports are forthcoming to the agency. Although the IRS initially agreed to accept this responsibility, no wage report reconciliation has been completed for any year since the 1978 wage reporting changes. We are deeply disturbed by the lack of action on the part of the IRS to reconcile discrepant employer wage reports.

It is our understanding that the IRS modified its position on the fundamental issues to which the agency had agreed in the 1979 MOU. According to the IRS testimony to our subcommittee, the agency is only responsible for tax administration. Clearly, the primary objective of the IRS is to collect and account for tax revenues. However, the IRS should consider that objectives of the Social Security system and those of the IRS are clearly linked in this case. The SSA does not have the ability to compare employer wage reports. At the same time, it is necessary for the IRS to examine worker earnings records. Without cooperation from both agencies, neither important task can be completed. Therefore, we believe that the intent of the law and the MOU is to amend the mission of the IRS to one which aids the SSA in its mission of ensuring that individuals and beneficiaries receive all the benefits to which they are entitled.

According to information that you provided to us, the IRS has proposed changes in the MOU. Under the terms of the IRS suggestions, the agency would resolve cases in which there is a significant tax liability. The standard criteria for employer wage report reconciliation would be a revenue-yield to cost-basis ratio, in other words, or the estimated tax revenue to the availability of resources and budget ratio. SSA, on the other hand, would be responsible for cases in which the wage reporting error is an understatement that reduces the earnings records of current and future beneficiaries. This distinction of cases loses sight of one of the primary goals of reconciliation. Wage report reconciliation is important not only for the revenue implications, but also to ensure the accuracy of SSA records. With this in mind, we conclude that one agency, namely the IRS, has both the ability and the responsibility to reconcile discrepant employer wage reports.

We are optimistic that you will resolve the outstanding differences between the IRS and SSA in an expeditious manner. We are most appreciative of your efforts to apprise us of the progress of your negotiations and also the assistance of your staff in conducting an informative briefing on December 10th. We appreciate your timely consideration of our concerns.

Sincerely,

Edward R. Roybal
Chairman

Tom Tauke
Ranking Republican Member

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

DEC 3 0 1987

Honorable Edward R. Roybal
Chairman, Select Committee on Aging
2211 Russell House Office Building
Washington, DC 20515-0525

Honorable Thomas J. Tauke
Ranking Republican Member
Select Committee on Aging
2244 Russell House Office Building
Washington, DC 20515-1502

Dear Chairman Roybal and Mr. Tauke:

I have received your December 18, 1987, letter and I understand and share your concerns regarding the unresolved issue of employer wage report reconciliation with the Social Security Administration (SSA).

We have been working with SSA and are hopeful of working out a shared but clear distinction of the type of unreconciled case each agency should work so that the primary goals of reconciliation are accomplished. We would like to bring this to closure before the end of January 1988. We will continue to apprise you of our progress.

With best regards.

Sincerely,

Larry Jr.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

MAR 8 1988

Honorable Thomas J. Tauke
Ranking Republican Member
Subcommittee on Retirement Income and Employment
714 House Office Building, Annex 1
Washington, D.C. 20515

Dear Mr. Tauke:

I apologize for the delay in getting this letter off to you.

You may recall your previous letter to us concerning the issue of wage report reconciliation with the Social Security Administration (SSA).

I wanted to let you know that IRS and SSA have recently reached conceptual agreement with the type of unreconciled cases each agency will work. Our staffs are now working on the language of this conceptual agreement that will be committed to a new Memorandum of Understanding which each agency will execute very soon. I believe this is a good agreement for both agencies and do not forsee any problems.

Sincerely,

Charles H. Brennan
Deputy Commissioner (Operations)

Agreement

Between

The Social Security Administration

And

The Internal Revenue Service

Article I

Authority

Public Law 94-202, enacted January 2, 1976, provides the authority for the design and implementation of a Combined Annual Wage Reporting (CAWR) System.

Title II of the Social Security Act was amended by Public Law 94-202 by adding a new section which now reads:

> "Sec. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this title and title XI. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury."

Public Law 95-216, enacted December 20, 1977, eliminates the need for the submission of quarterly information on the annual wage and tax statement. The provisions contained herein duly reflect the requirements of Public Law 95-216.

MOU as signed by Comm. Hardy 4/14/88

Article III

Purpose

This agreement sets forth the manner by which IRS and SSA will ensure that CAWR is effectively-and efficiently maintained. Under this system, all United States domestic employers are required to file Forms W-2, Forms W-2P and Forms W-3 or equivalent magnetic media reports with SSA. All employers in Guam, Northern Mariana Islands, American Samoa, U.S. Virgin Islands and Puerto Rico are required to file forms that are the equivalents of Forms W-2 and W-3 with SSA. From the data provided by these forms, SSA prepares electronic media for use by IRS in meeting its responsibilities under the Internal Revenue Code and by SSA in meeting its responsibilities under the Social Security Act. All United States domestic employers are required to file Forms 94X with IRS, while nondomestic employers are required to file forms equivalent to Forms 94X. SSA processed W-2/W-3 wage reports are compared to the Form 94X data and where not in agreement are reconciled. Where employers have failed in their responsibilities, penalties are assessed.

Article IV

Functions to Be Performed

A. IRS agrees to:

1. For tax years beginning 1987, reconcile discrepancies between employer W-2/W-3 wage reports provided SSA and tax returns provided IRS on Form 94X, subject to agreed upon tolerances, and to provide SSA with sufficient information received from this reconciliation activity to permit any necessary correction of SSA records. Such reconciliation activity will include employer contacts when IRS is unable to resolve discrepancies based upon its own records. For those non-tax related cases, IRS reconciliation effort will be subsequent to SSA initiating prior contact with these employers (See Section B, item 7 below). Where non-filing employers fail to respond to SSA and IRS contacts, penalties will be assessed. Beyond correspondence SSA and IRS will negotiate, on a case-by-case basis, other types of contacts that may be needed.

Article VIII
Cost Accounting

1. Public Law 94-202, enacted January 2, 1976 provides for a cost settlement to be made between the Trust Funds and General Fund based on a methodology prescribed by the Board of Trustees of the Trust Funds. This methodology was adopted by the Trustees on May 15, 1978.

2. For purposes of proper cost accounting and the assignment of costs to the Trust Funds or General Fund, each agency will continue to develop estimated and actual costs based on the cost-sharing principles stipulated in the cost sharing methodology of the Board of Trustees.

Article IX
Agreement

On behalf of the Secretaries of the Treasury and of Health and Human Services, we, the undersigned, do hereby agree to the foregoing provisions of this agreement, which supersedes our original agreement and its subsequent modifications.

Commissioner of Internal Revenue	Date	Commissioner of Social Security	Date
		Dorcas R Hardy	April 4, 1988

ATTACHMENT #5

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

MAY 16 1988

Mr. Richard P. Kusserow
Inspector General
Department of Health and Human Services
Washington, DC 20201

Dear Mr. Kusserow:

I am writing to you on behalf of Commissioner Gibbs regarding your letter of April 20, 1988, outlining the conclusions of your updated draft audit report entitled "Opportunities Exist for the Government to Increase use of Data Operations Centers' Resources". We do not agree that transferring the Data Operations Centers (DOC's) to IRS is the most viable solution to SSA's problem of the decline in workload and underutilization of staff and facilities at their DOC's.

IRS, too, has experienced a dramatic decline in processing paper returns. Both IRS and SSA have actively promoted magnetic media filing of information returns (such as Forms 1099 and W-2) during the last ten years in an effort to reduce the paper workload and improve the quality of the data received. Like SSA, we have utilized Optical Character Recognition (OCR) equipment to process both tax returns and information returns for several years. This process significantly reduces the requirement to key enter data. During the next few years, we will expand OCR processing further to include Forms 941 (8.6 million returns annually) and possibly Forms 1040A.

The implementation of our new Electronic Filing System (EFS) will result in an even greater reduction in paper processing of tax returns and a comparable reduction in staffing required to key input data. We processed approximately 600,000 Individual Income Tax Returns through electronic means this year. In 1989 we expect to process about 2 million individual returns electronically and anticipate that by the mid 1990's nearly 35 million returns will be processed in this manner. For 1989 alone, this will represent a savings of 92,000 staff hours. In addition, we plan to expand EFS to include 6 million business returns being processed annually by 1991. We are also exploring the use of advanced technologies in OCR, EFS and optical disk storage systems which will further automate processing and enable us to process tax returns much faster. Such efficiencies will continue to decrease our need for key-entry data staffing.

As we continue to reduce our paper processing, we will likely face problems similar to those that SSA is now facing with their DOC's. Our input processing is seasonal, with about 70 percent of our staff years being expended during the period of February through June. Each year we are faced with the task of placing seasonal employees in other suitable positions in order to maintain a trained staff for the next processing season. If IRS attempts to absorb DOC staff whose skills are also required primarily during peak processing, we would only add to our problems as well as the problems of the redeployed DOC employees.

Assuming congressional approval, overall staffing for IRS will increase in Fiscal Years 1988 and 1989. The vast majority of this is targeted for tax examination, collecting unpaid taxes and taxpayer service. These positions are of a professional level and include attorneys, revenue agents, taxpayer assistors and revenue officers. There is very little change in the staffing for data conversion in our service centers. Between FY 1987 and 1988 staffing for data conversion increased by only 16 staff years for all centers, and, we believe there will be a slight decrease for FY 1989. For these reasons, we do not agree that IRS could easily absorb DOC staffs that are skilled in data transcription and manual input of data.

In our opinion the SSA analysis of the percentage of data conversion work done at the DOC's on IRS's behalf is incomplete. SSA's calculations are based on the total number of fields on Forms W-2, W-2P and W-3 which are used by both agencies. Our analysis, which is based on the maximum number of characters in each field and the total volume of returns processed, indicates that only 40 percent of the data conversion is done to benefit IRS. When this factor is weighted to account for the volume of returns filed on paper, the percentage of the DOC workload that benefits only IRS decreases to about 34 percent.

Your letter also states that IRS was charged $45 million in FY 1987 for work performed on its behalf by SSA. This is not technically correct. The inter-agency agreement specifies that each agency is responsible for funding its share of the costs incurred under the agreement. IRS does not reimburse SSA. Public Law 94-202 provides that a cost settlement be made between the Trust Fund and the General Fund based on a methodology prescribed by the Board of Trustees of the Trust Fund. However, this settlement does not increase or decrease the IRS appropriation.

Finally, since the DOC's are geographically distant from IRS processing centers and we have no real need for the work force at these sites, it would not be practical, or economical, to expend IRS

resources for the sole purpose of keeping them open. If IRS took over the DOC operations, it is likely that we would close all three locations and discharge the staff since it would be far more economical to do the work in our existing centers.

Although we are sympathetic to Social Security's problem, transferring the DOC's to the IRS would create similar problems for the IRS while not solving the employment problems of the individuals involved.

Sincerely,

Charles H. Brennan
Deputy Commissioner
(Operations)

bcc: Michael R. Hill
Inspector General
Department of Treasury

Joseph R. Wright
Deputy Director
Office of Management & Budget

Gerald Riso - OMB
Chuck Bowsher - GAO
Norm Goldstein - SSA
Jill Kent - Treasury
Ted Kern - IRS
Dorcas Hardy - SSA

ATTACHMENT #6

EDWARD R. ROYBAL, CALIFORNIA
CHAIRMAN

THOMAS J. DOWNEY, NEW YORK
MARILYN LLOYD, TENNESSEE
MARY ROSE OAKAR, OHIO
MIKE SYNAR, OKLAHOMA
GEO. W. CROCKETT, JR., MICHIGAN
RICK BOUCHER, VIRGINIA
ROBERT E. WISE, JR., WEST VIRGINIA
HAROLD L. VOLKMER, MISSOURI
THOMAS J. MANTON, NEW YORK
RICHARD H. STALLINGS, IDAHO

BRIAN T. LUTZ
STAFF DIRECTOR
(202) 226-3336

U.S. House of Representatives

SELECT COMMITTEE ON AGING
SUBCOMMITTEE ON RETIREMENT INCOME AND EMPLOYMENT
714 HOUSE OFFICE BUILDING ANNEX 1
Washington, DC 20515

THOMAS J. TAUKE, IOWA
RANKING REPUBLICAN MEMBER

NORMAN D. SHUMWAY, CALIFORNIA
JAMES M. JEFFORDS, VERMONT
HARRIS W. FAWELL, ILLINOIS
PATRICK L. SWINDALL, GEORGIA
PAUL B. HENRY, MICHIGAN
BILL SCHUETTE, MICHIGAN
FLOYD SPENCE, SOUTH CAROLINA
MATTHEW J. RINALDO, NEW JERSEY
(EX OFFICIO)

JANE WILLIAMS
REPUBLICAN STAFF DIRECTOR

JANE E. O'DONNELL
ASSISTANT STAFF DIRECTOR
(202) 226-3336

May 23, 1988

Lawrence T. Gibbs
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N. W.
Washington, D. C. 20224

Dear Mr. Gibbs:

We urge you to sign the Memorandum of Understanding (MOU) between the Internal Revenue Service and the Social Security Administration in regard to consolidated annual wage reconciliation.

The IRS and SSA reached an agreement on revisions to the MOU in April. Commissioner Hardy signed the agreement on April 14th. There is no outstanding issue to be resolved in regard to the MOU. Yet one month has passed since Commissioner Hardy signed the agreement.

It is our understanding that the inordinate delay in signing the MOU is the result of recent recommendations contained in a report of the Inspector General of the Department of Health and Human Services. The report concludes that SSA Data Operations Centers (DOCs) would be more efficiently managed by the IRS. We empathize with your concern about the prospect of absorbing the DOCs, but the MOU should not be held hostage to this unrelated disagreement between the IRS and SSA.

The unreconciled wage reporting problem has been ignored for ten years. Potentially millions of American workers and retirees have been effected by the stalemate. Now that an agreement has been reached, it is unacceptable to us that the MOU is caught in a bureaucratic tug of war.

We strongly urge you to sign the MOU.

Sincerely,

Edward R. Roybal
Chairman

Tom Tauke
Ranking Republican Member

cc: Norman Goldstein

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

JUN 8 1988

The Honorable Thomas J. Tauke
Subcommittee on Retirement
Income and Employment
House Select Committee on Aging
Room 714, HOB Annex 1
Washington, DC 20515

Dear Mr. Tauke.

This is in response to the May 23, 1988 letter signed by you and Chairman Roybal to Commissioner Gibbs, concerning the Memorandum of Understanding (MOU) between the Internal Revenue Service and the Social Security Administration in regard to consolidated annual wage reconciliation.

In my letter of March 2, 1988, I informed you that the IRS had reached conceptual agreement with the SSA on terms of a new Memorandum of Understanding. Since that time our respective staffs have been dealing with the technical language needed to express the intent of the document. I am pleased to inform you that on this date, we have returned the MOU, containing some modifications, to Commissioner Hardy for signature. Commissioner Gibbs has signed the revised version.

I believe this is a good agreement that addresses the issues recently raised by GAO. The agencies have agreed on a plan that will resolve all of the wage discrepancies from prior years that are contained in the backlog at SSA. This plan also provides for resolution of all discrepancies in future years, with IRS greatly expanding its commitment to this effort.

Sincerely,

Charles H. Brennan
Deputy Commissioner (Operations)

ATTACHMENT #7

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

COMMISSIONER

JUN 8 1988

The Honorable Dorcas R. Hardy
Commissioner of Social Security
Baltimore, MD 21235

Dear Dorcas ~~Commissioner Hardy:~~

This is in response to the Memorandum of Understanding (MOU) which revises the responsibilities of both agencies regarding the Combined Annual Wage Reporting (CAWR) Program.

Based on an agreement reached between our respective staffs, I have signed the enclosed MOU with 2 revised pages. The first is page 4, which amends Article IV-A.-1. indicating that the Service will reconcile a maximum of 175,000 non-tax related discrepancies subsequent to Social Security contact with these employers. The second revision is on page 11, inserting a new Article IX regarding the Data Operations Centers and renumbering old Article IX as Article X.

I have signed a new page 11 and retained one copy of the MOU which includes these new pages. Please return a signed copy for our records.

With best regards,

Sincerely,

Larry

Enclosure

Agreement

Between

The Social Security Administration

And

The Internal Revenue Service

Article I

Authority

Public Law 94-202, enacted January 2, 1976, provides the authority for the design and implementation of a Combined Annual Wage Reporting (CAWR) System.

Title II of the Social Security Act was amended by Public Law 94-202 by adding a new section which now reads:

> "Sec. 232. The Secretary of the Treasury shall make available information returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954, to the Secretary for the purposes of this title and title XI. The Secretary and the Secretary of the Treasury are authorized to enter into an agreement for the processing by the Secretary of information contained in returns filed pursuant to part III of subchapter A of chapter 61 of subtitle F of the Internal Revenue Code of 1954. Notwithstanding the provisions of section 6103(a) of the Internal Revenue Code of 1954, the Secretary of the Treasury shall make available to the Secretary such documents as may be agreed upon as being necessary for purposes of such processing. The Secretary shall process any withholding tax statements or other documents made available to him by the Secretary of the Treasury pursuant to this section. Any agreement made pursuant to this section shall remain in full force and effect until modified or otherwise changed by mutual agreement of the Secretary and the Secretary of the Treasury."

Public Law 95-216, enacted December 20, 1977, eliminates the need for the submission of quarterly information on the annual wage and tax statement. The provisions contained herein duly reflect the requirements of Public Law 95-216.

Article III

Purpose

This agreement sets forth the manner by which IRS and SSA will ensure that CAWR is effectively and efficiently maintained. Under this system, all United States domestic employers are required to file Forms W-2, Forms W-2P and Forms W-3 or equivalent magnetic media reports with SSA. All employers in Guam, Northern Mariana Islands, American Samoa, U.S. Virgin Islands and Puerto Rico are required to file forms that are the equivalents of Forms W-2 and W-3 with SSA. From the data provided by these forms, SSA prepares electronic media for use by IRS in meeting its responsibilities under the Internal Revenue Code and by SSA in meeting it responsibilities under the Social Security Act. All United States domestic employers are required to file Forms 94X with IRS, while nondomestic employers are required to file forms equivalent to Forms 94X. SSA processed W-2/W-3 wage reports are compared to the Form 94X data and where not in agreement are reconciled. Where employers have failed in their responsibilities, penalties are assessed.

Article IV

Functions to Be Performed

A. IRS agrees to:

1. For tax years beginning 1987, reconcile discrepancies between employer W-2/W-3 wage reports provided SSA and tax returns provided IRS on Form 94X, subject to agreed upon tolerances, and to provide SSA with sufficient information received from this reconciliation activity to permit any necessary correction of SSA records. Such reconciliation activity will include employer contacts when IRS is unable to resolve discrepancies based upon its own records. Using an estimated annual projection of 650,000 non-tax related cases, a reduction of 300,000 cases should result from SSA planned enhancements and the implementation of joint agency proposals (See a. and b. below). The remaining 350,000 non-tax related cases will be split between both agencies with the provision that the IRS volume will not exceed 175,000 cases. For those non-tax related cases, IRS reconciliation effort will be subsequent to SSA initiating prior contact with these employers (See Section B, item 7 below). Where non-filing employers fail to respond to SSA and IRS contacts, penalties will be assessed. Beyond correspondence SSA and IRS will negotiate, on a case-by-case basis, other types of contacts that may be needed.

new language provided by IRS

Article VIII
Cost Accounting

1. Public Law 94-202, enacted January 2, 1976 provides for a cost settlement to be made between the Trust Funds and General Fund based on a methodology prescribed by the Board of Trustees of the Trust Funds. This methodology was adopted by the Trustees on May 15, 1978.

2. For purposes of proper cost accounting and the assignment of cost to the Trust Funds or General Fund, each agency will continue to develop estimated and actual costs based on the cost-sharing principles stipulated in the cost sharing methodology of the Board of Trustees.

New language provided by IRS

Article IX
Data Operations Centers

SSA agrees that the initial processing of wage and pension data will continue to be performed by SSA's Data Operations Centers, as heretofore performed, and further agrees that the Data Operations Centers will remain under SSA's Administration.

Article X
Agreement

On behalf of the Secretaries of the Treasury and of Health and Human Services, we, the undersigned, do hereby agree to the foregoing provisions of this agreement, which supersedes our original agreement and its subsequent modifications.

JUN 8 1988

Commissioner of Internal Revenue	Date	Commissioner of Social Security	Date

ROBERT D. WILLIAMSON
875 WEST END AVENUE
NEW YORK, NEW YORK 10025

August 16, 1988 (212) 662-6010

Mr. Robert J. Leonard, Chief Counsel
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth Building
Washington, DC 20515

Dear Mr. Leonard:

Crediting Earnings to Social Security Accounts - Mismatches

I offer the following on behalf of the member firms of the American Society of Payroll Management, which I serve as President.

So that a posting is not made to the wrong account, SSA's computers identify mismatches. A mismatch is said to occur when for a social security number the name on the SSA file does not match the name for that number provided by the employer. Lists or computer tapes are provided employers showing their mismatches. A member of our Society earlier this year got a tape with 10,000 mismatches.

While the computer program does not require that the name be identical on both files (SSA and employer's), it evidently cannot handle surnames such as "de la Garza" and "Vin Ton". On the tape of 10,000 mentioned above, a large percent of the reported mismatches were for employees with such spanish or asian surnames. It could be that a more sophisticated parsing program would identify fewer mismatches.

Another source of mismatches is when the new employee gives an incorrect social security number, either on purpose or by accident. Making the original social security card required identification to be presented at time of in hire in connection with the Form I-9, rather than optional as at present, would solve this problem.

We would be pleased to assist you further in any way we can.

Sincerely,

Robert D. Williamson

Robert D. Williamson

RDW/ja